United Nations A/63/209–S/2008/514

General Assembly
Security Council

Distr.: General
4 August 2008

Original: English

General Assembly
Sixty-third session
Item 70 of the provisional agenda*
Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Security Council
Sixty-third year

Report of the International Criminal Tribunal for Rwanda

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and to the members of the Security Council the thirteenth annual report of the International Criminal Tribunal for Rwanda submitted by the President of the International Criminal Tribunal in accordance with article 32 of its statute (see Security Council resolution 955 (1994), annex), which states:

> "The President of the International Tribunal for Rwanda shall submit an annual report of the International Tribunal for Rwanda to the Security Council and to the General Assembly."

* A/63/150.

08-44832 (E) 260808

Letter of Transmittal

1 August 2008

Excellencies,

I have the honour to submit the thirteenth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 dated 1 August 2008 to the General Assembly and the Security Council, pursuant to article 32 of the statute of the International Tribunal.

Please accept, Excellencies, the assurances of my highest consideration.

(*Signed*) Charles Michael Dennis **Byron**
President

President of the General Assembly
United Nations
New York

President of the Security Council
United Nations
New York

Thirteenth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Summary

The present annual report outlines the activities of the International Criminal Tribunal for Rwanda for the period from 1 July 2007 to 30 June 2008.

It illustrates the absolute commitment of the Tribunal to meeting the completion strategy targets while respecting due process.

Three trial judgements concerning three accused were delivered, including one case for false testimony and one case of guilty plea, bringing to 36 the total number of persons whose judgements have been completed at the first instance. Two single-accused cases were referred to France. The evidence phase in the trials against 6 persons was completed, bringing the total in judgement writing phase to 10 accused in 7 cases. Trials are in progress against 19 persons in 4 multi-accused cases and in 2 single-accused cases commenced during the reporting period.

Three detainees await trial, including two accused arrested late in 2007 and early in 2008. A third fugitive was arrested at the end of 2007 and awaits completion of the judicial process in the country of apprehension for his transfer to the Tribunal.

Of the five Prosecutor's requests for referral to Rwanda, three were denied, while two others are pending. The Prosecutor has already filed notice of appeal against two decisions.

In addition to many interlocutory decisions and pretrial orders, the Appeals Chamber rendered 3 judgements concerning 5 accused, bringing to 25 the total number of persons whose judgments have been completed at the appellate level.

The Office of the Prosecutor continued to focus on securing the arrest of the remaining fugitives with the successful arrest of two accused. It sought the referral of five cases to Rwanda for trial and provided assistance in Rwandan trial proceedings.

The Registry maintained high-level administrative and judicial support to the Tribunal. It ensured the cooperation and assistance of Members States with the Tribunal and conducted a diverse range of capacity-building activities in Rwanda. Through its Press and Public Affairs Unit and Legal Library and Reference Section, the Office of the Registrar actively promoted the work of the Tribunal. The various Units and Sections of the Judicial and Legal Services Division provided continuous support to trial proceedings. The Division of Administrative Support Service adopted essential measures for managing and monitoring the downsizing process of the Tribunal.

As a result of the combined efforts of the three organs of the Tribunal, the Tribunal substantially complied with its completion strategy, while upholding trial fairness and the rights of the accused. The evidence phase of all the trials of which the Tribunal had been seized in 2003, with the exception of the *Karemera et al.* trial and the four cases earmarked for transfer to domestic jurisdiction, will conclude in 2008, although judgement writing in some will spill over into 2009. The recent arrest of three high-level accused required an adjustment of the projections of the Tribunal for the completion of its trial work. This additional workload can be completed in the next year.

The cooperation and support of States is paramount to the success of the completion strategy, including for the arrest of indictees at large, relocation of acquitted persons and referral of cases. Sufficient resources must be provided for the completion of the work.

Contents

		Paragraphs	*Page*
I.	Introduction	1–2	5
II.	Activities of the Tribunal	3–73	5
	A. Activity of the President	4–6	5
	B. Activity of Chambers	7–53	6
	C. Activity of the Office of the Prosecutor	54	15
	D. Activity of the Registry	55–73	16
III.	Conclusion and recommendations	74–77	19
Annexes			
I.	Trial Chambers		21
II.	Appeals Chamber		23

I. Introduction

1. The thirteenth annual report is submitted to the General Assembly and Security Council by the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, pursuant to article 32 of the statute of the Tribunal. It outlines the activities of the Tribunal for the period from 1 July 2007 to 30 June 2008.

2. The three organs of the Tribunal have maintained a high level of performance, moving expeditiously to the completion of its work. Achieving the goals set by the completion strategy does not come easily. The support and cooperation of States remain paramount to those goals, as recommended hereafter.

II. Activities of the Tribunal

3. The Tribunal consists of three Trial Chambers, one Appeals Chamber, the Prosecutor and a Registry. Since 29 May 2007, Judge Dennis Byron (Saint Kitts and Nevis) has served as President and Judge Khalida Rachid Khan (Pakistan) as Vice-President.

A. Activity of the President

1. Judicial activity

4. During the reporting period, the President issued several orders assigning cases to Trial Chambers sections, including requests for referral of cases to domestic jurisdictions; rendered two decisions denying special conditions of detention of one accused, and one decision ordering the enforcement of the sentence of one accused in Italy.

2. Completion strategy

5. In coordination with the Prosecutor and the Registrar, the President has concentrated on the expeditious and efficient completion of the work of the Tribunal. On 10 December 2007 and 4 June 2008, the President, along with the Prosecutor, presented the six-month completion strategy reports to the Security Council. Those reports demonstrate that the workload of the Tribunal is under control and that different measures are continuously taken to ensure completion of its work at the earliest date possible, while upholding trial fairness and the rights of the accused. They also show that the Tribunal is already downsizing while having substantially complied with its completion strategy, despite unforeseen circumstances beyond its control.

3. Diplomatic relations and other representation

6. The President maintained regular contact with United Nations Headquarters and the diplomatic community, providing regular and detailed information on the progress and challenges in the completion of the work of the Tribunal. This also

provided an opportunity to capture their views and concerns as the Tribunal moves towards the end of its activities. The Office of Legal Affairs provided great support to the work of the Tribunal, especially concerning the prompt appointment of ad litem judges to Trial Chambers.

B. Activity of Chambers

1. Composition of the Chambers

7. The Chambers are composed of 16 permanent judges and nine ad litem judges. Nine permanent judges sit in the three Trial Chambers, while seven permanent judges sit in the Appeals Chamber.

8. Each Trial Chamber to which ad litem judges are assigned may be divided into sections of three judges each, composed of both permanent and ad litem judges. A section of a Trial Chamber has the same power and responsibilities as a Trial Chamber. Pursuant to article 12 quater of the statute, ad litem judges are not eligible to preside over a Trial Chamber. The different compositions of the three Trial Chambers during the reporting period appear in annex I to the present report.

9. The Appeals Chamber is common with the International Criminal Tribunal for the Former Yugoslavia. Two permanent judges of the Tribunal have been assigned to the Appeals Chamber, in accordance with article 13 of the statute. The full composition of the Appeals Chamber appears in annex II. For each appeal, the Appeals Chamber is composed of five judges.

2. Principal activity of the Trial Chambers and the Appeals Chamber

(a) Trial Chamber I

10. During the reporting period, Trial Chamber I rendered one judgement, engaged in judgement writing in two cases, heard evidence in one ongoing trial, and attended to pretrial matters in several further cases. It rendered a decision on one request for referral of a case for trial to a domestic jurisdiction and attended to matters in relation to an additional referral request.

i. One judgement in one single-accused case

11. On 7 December 2007, the Chamber convicted *François Karera* (former *préfet* of Kigali-Rural) of genocide and extermination and murder as crimes against humanity based on his participation in the killing of Tutsis in April and May 1994. He was sentenced to imprisonment for the remainder of his life. The judgement is under appeal.

ii. Two judgements in writing process

Bagosora et al.

12. The trial, involving four co-accused (*Théoneste Bagosora*, former Director of Cabinet and Minister of Defence; *Gratien Kabiligi*, former Brigadier-General in the Armed Forces of Rwanda (FAR); *Aloys Ntabakuze*, former FAR Battalion Commander and *Anatole Nsengiyumva*, former Lieutenant-Colonel in FAR), concluded after 408 trial days, during which 242 witnesses testified and 1,584

exhibits were tendered into evidence. Judgement is expected in 2008. During this reporting period, the Chamber delivered one written decision.

Renzaho

13. On 6 September 2007, the Defence case in the trial of *Tharcisse Renzaho* (former *préfet* of Kigali-ville) closed. In all, the parties called 53 witnesses during 49 trial days. Closing arguments were heard on 14 and 15 February 2008. Judgement is expected in 2008. During this reporting period, the Chamber delivered three decisions.

iii. One ongoing trial

14. The Prosecution case against *Hormisdas Nsengimana* (Catholic priest), which commenced on 22 June 2007 and during which 19 witnesses were heard over 20 trial days, closed on 7 February 2008. The Defence case commenced on 2 June 2008 and will conclude in July 2008. Judgement is expected in 2008. During this reporting period, the Chamber delivered nine written decisions.

iv. Referrals

15. On 6 June 2008, the Chamber denied the Prosecutor's request to refer the case of *Gaspard Kanyarukiga* (businessman) to Rwanda. The Chamber was principally concerned that Kanyarukiga may not be able to call witnesses residing outside Rwanda to the extent and in a manner which will ensure a fair trial. The defence may also face problems in obtaining witnesses residing in Rwanda, who may be afraid to testify. Finally, if sentenced to life imprisonment, the accused may risk solitary confinement owing to unclear legal provisions in Rwanda. The decision is under appeal. An additional request to refer the case of *Jean-Baptiste Gatete* (former *Bourgmestre* of Murambi) to Rwanda is under consideration. During this reporting period, the Chamber rendered more than 20 decisions in both cases, including consideration of amici curiae requests from the Republic of Rwanda, the Kigali Bar Association, Human Rights Watch, the International Criminal Defence Attorneys Association, Association des avocats de la défense auprès le TPIR (International Criminal Tribunal for Rwanda), and Ibuka and Avega.

v. Pretrial matters

16. The Chamber held status conferences and addressed pretrial matters in six other cases, including in the *Setako* case, which is scheduled to commence before Trial Chamber I in August 2008.

(b) Trial Chamber II

17. In this reporting period, Trial Chamber II issued one judgement, completed one single-accused case, which is in judgement-writing, and closed evidence in one multi-accused case. At the end of the reporting period, 3 trials involving 11 accused are ongoing before Trial Chamber II.

i. One judgement in one single-accused case

18. Following a guilty plea agreement with *Juvénal Rugambarara* (*Bourgmestre* of Bicumbi *commune* from August 1993 to July 1994), the Prosecutor filed an amended

indictment on 2 July 2007. At the further appearance held on 13 July 2007, being satisfied that the guilty plea was informed and unequivocal, made freely and voluntarily, and based on sufficient facts, the Chamber found Rugambarara guilty of extermination as a crime against humanity. A sentencing hearing was held on 17 September 2007. On 16 November 2007, the Chamber sentenced Rugambarara to 11 years' imprisonment.

ii. One judgement in writing process

19. *Emmanuel Rukundo* (Chaplain) commenced and completed his defence during the reporting period. Between 9 July and 22 October 2007, 32 defence witnesses testified over 38 trial days. Closing arguments were heard on 20 February 2008. The Chamber rendered 28 written and oral decisions. The judgement is expected soon.

iii. One case involving four co-accused awaiting closing arguments to be heard

20. Since the last report, the two remaining co-accused commenced and completed the presentation of their evidence in the *Bizimungu et al.* case. The proceedings resumed on 13 August 2007 with the commencement of the defence for *Jérôme-Clément Bicamumpaka* (Minister of Foreign Affairs and Cooperation from 9 April to mid-July 1994). His defence case closed on 12 February 2008, although some remaining witnesses, who were not available earlier, testified in April 2008. In all, the Chamber heard 25 witnesses for Bicamumpaka, including the accused. The defence for *Prosper Mugiraneza* (Minister of Civil Service from 9 April to mid-July 1994) conducted its case from 18 February through 11 June 2008, during which the Chamber heard 46 witnesses for Mugiraneza, including the accused. During this period, the Chamber also heard a Prosecution witness recalled for further cross-examination. The evidence in this case is now closed, subject to pending motions seeking reconsideration of issues relating to Mugiraneza's witness list. The Chamber sat for a total of 96 trial days and rendered more than 50 written and oral decisions. The Chamber will conduct a site visit in Rwanda in October 2008 and hear the closing arguments in December 2008. Judgement will be delivered in 2009.

iv. Three ongoing trials involving eleven accused

Butare

21. During this reporting period, in addition to the three defence cases already completed (*Pauline Nyiramasuhuko*, former Minister of Family and Women's Development; *Arsène Shalom Ntahobali*, alleged leader of an *Interahamwe* group in Butare in April 1994; and *Sylvain Nsabimana*, *préfet* of Butare from 19 April to 17 June 1994), two defence cases were completed and the last accused commenced the presentation of his evidence.

22. *Alphonse Nteziryayo* (*préfet* of Butare from 17 June to July 1994) closed his defence on 9 July 2007 save for one witness, who could not be located at the time. Later on, Nteziryayo decided not to call that witness. The Chamber heard 23 Nteziryayo defence witnesses, including the accused. The defence for *Joseph Kanyabashi* (former *bourgmestre* of Ngoma *commune* in Butare) made its opening statement on 10 July 2007. The first witnesses were called just after the judicial recess, on 20 August 2007. Kanyabashi's case closed on 20 May 2008 after calling 23 witnesses, save for one witness, who was unavailable to testify at that time. Over the same period, the Chamber heard the last witness for Ntahobali, who had been

unavailable to testify earlier, by video-link. The defence for *Élie Ndayambaje* (former *bourgmestre* of Muganza *commune* in Butare) made its opening statement on 20 May 2008. Thus far, 10 of the listed 30 witnesses have testified. It is anticipated that Ndayambaje will close his defence in 2008. During this reporting period, the Chamber sat for 136 days and rendered 33 written and oral decisions. It is anticipated that the case will be closed in 2008, with judgement drafting extending into 2009.

Ndindiliyimana et al.

23. During the reporting period, the first co-accused (*Augustin Bizimungu*, former Chief of Staff of the Rwandan Army) completed his case, which started during the last reporting period; the second co-accused (*Augustin Ndindiliyimana*, former Chief of Staff of the *Gendarmerie nationale*) commenced and completed his defence; and the third co-accused (*François-Xavier Nzuwonemeye*, former Commander of the Reconnaissance Battalion within the Rwanda Army) commenced his case.

24. Between 16 October and 14 December 2007, the Chamber heard 42 Bizimungu defence witnesses, including the accused. Ndindiliyimana commenced his case on 16 January 2008 and closed it on 23 June 2008 after calling 39 witnesses, including the accused. On the same day, Nzuwonemeye commenced the presentation of his case. Thus far, four Nzuwonemeye witnesses have testified. During the reporting period, the Chamber sat for 82 trial days and rendered 39 written and oral decisions. The defence for the last co-accused *Innocent Sagahutu* (former Second-in-command, Reconnaissance Battalion within the Rwanda Army) is anticipated to commence in 2008. Judgement drafting will continue into 2009.

Bagaragaza

25. As a result of the revocation of the referral of his case to the Netherlands (see para. 35 below), and after several joint requests by the Prosecutor and the accused for special conditions of detention, *Michel Bagaragaza* (Director of a tea factory in 1994) was transferred to Arusha on 20 May 2008. His trial will commence soon. Judgement is expected in 2008.

(c) Trial Chamber III

26. During this reporting period, Trial Chamber III rendered one judgement, transferred the cases of two accused to a domestic jurisdiction, closed evidence and commenced judgement-writing in three single-accused cases, continued trial proceedings in one multi-accused case and commenced trial in one single-accused case. One case of contempt of court is scheduled to commence shortly. One case referral was revoked, two requests for referral were denied and one other request is pending, while the Chamber attended to pretrial matters in one case.

i. One judgement

27. On 4 December 2007, Trial Chamber III found a former witness in the *Kamuhanda* trial, known under the pseudonym GAA, guilty of giving false testimony under solemn declaration and contempt of the Tribunal. He was sentenced to nine months' imprisonment.

ii. Two single-accused cases transferred to a domestic jurisdiction

28. On 20 November 2007, Trial Chamber III granted the Prosecutor's requests to refer the cases of *Laurent Bucyibaruta* (former *préfet* of Gikongoro) and *Wenceslas Munyeshyaka* (clergy) to France. Since then, in accordance with the Chamber's orders, the Prosecutor has filed confidential reports on the conduct of the proceedings by the French authorities against the accused.

iii. Three judgments in writing process

Nchamihigo

29. *Siméon Nchamihigo* (former *substitut du Procureur*) completed his defence during the reporting period. Over 16 trial days, the Chamber heard 20 defence witnesses. The parties made closing arguments on 23 January 2008. During this period, the Chamber delivered 24 written and oral decisions. Judgement is expected shortly.

Bikindi

30. *Simon Bikindi* (composer and singer of popular music) closed his defence on 7 November 2007. Thirty-seven defence witnesses testified over 28 trial days, including the accused. The Chamber conducted a site visit in Rwanda from 14 to 18 April 2008. The parties presented closing arguments on 26 May 2008. During this reporting period, the Chamber delivered 15 written and oral decisions. Judgement is expected in the next months.

Zigiranyirazo

31. *Protais Zigiranyirazo* (businessman) concluded his defence on 4 December 2007. The six remaining defence witnesses were heard over six trial days. The Chamber conducted a site visit in Rwanda from 12 to 16 November 2007. The parties delivered closing arguments on 28 and 29 May 2008. This year, the Chamber delivered seven written and oral decisions. Judgement is expected in the next months.

iv. Two ongoing trials involving four accused

Karemera et al.

32. The prosecution case closed on 4 December 2007. The defence case for the first of the three co-accused (*Edouard Karemera*, former Minister of Interior) was scheduled to commence on 10 March 2008. However, the Chamber postponed trial until 7 April 2008 to allow the accused further time and facilities for the preparation of his case, and the Prosecutor further time to conduct investigations and prepare for cross-examination. Furthermore, owing to exceptional circumstances, the same composition of Trial Chamber III had to be assigned to another single-accused trial which was ready to commence over the same period (Callixte Kalimanzira, see para. 33 below). Judicial calendars in both cases therefore had to be adjusted. From 7 April until 15 May 2008, the Chamber sat 23 trial days, recalling 3 prosecution witnesses and hearing 9 Karemera defence witnesses. It further heard evidence, via video-link, from a defence witness for the third co-accused (*Joseph Nzirorera*, former President of the National Assembly), who could not testify at a later date. The defence for the second co-accused (*Mathieu Ngirumpatse*, former President of

the Mouvement républicain national pour le développement et la démocratie (MRND)) will commence in 2008, followed by the defence for Nzirorera. Judgement delivery is anticipated in 2009. During this reporting period, the Trial Chamber delivered more than 160 written and oral decisions.

Kalimanzira

33. Considering the 2008 judicial calendar of the Tribunal, and to prevent postponement of this trial and serious delay in the completion objectives of the Tribunal, the section of Trial Chamber III already sitting in the *Karemera et al.* case (see para. 32 above) was reassigned to the case of *Callixte Kalimanzira* (former acting Minister of Interior). The prosecution case took place from 5 May until 22 May 2008, resumed on 16 June 2008 and concluded on 30 June 2008. The Chamber heard 24 prosecution witnesses over 16 trial days. The defence case is expected to be completed in 2008, with judgement to be delivered in the first half of 2009. During this reporting period, the Chamber delivered 15 written and oral decisions.

v. One case of contempt scheduled to commence shortly

34. On 24 December 2007, the Prosecutor indicted *Léonidas Nshogoza*, a former defence investigator in the *Kamuhanda* trial, charging him with contempt of the Tribunal. A Trial Chamber III Judge confirmed the indictment and issued a warrant for his arrest. The accused surrendered on 8 February 2008. He pleaded not guilty on all counts. His trial is scheduled to commence and conclude, with judgement delivery, in the second half of 2008.

vi. Referrals

Bagaragaza

35. On 7 August 2007, at the Prosecutor's request, the Chamber revoked the referral of *Michel Bagaragaza* to the Netherlands. This was prompted by a Dutch District Court decision finding that it has no jurisdiction in a case involving a Rwandan accused of genocide allegedly committed in Rwanda in 1994. Bagaragaza's trial at the Tribunal is scheduled for completion in 2008 (see para. 25 above).

Munyakazi

36. On 28 May 2008, after hearing the parties and four amici curiae, the Chamber denied the Prosecutor's request to transfer the case of one detainee (*Yusuf Munyakazi*, former *Interahamwe* leader) to Rwanda. The Chamber found that the applicable sentence to the crimes alleged against Munyakazi, life imprisonment in isolation, precluded the referral of his case. It was not satisfied either that, upon referral, the accused's rights to an independent tribunal and to obtain the attendance and examination of witnesses would be guaranteed. That decision is pending appeal. The Chamber sat one day, hearing the parties and amici curiae. It delivered 12 decisions.

Hategekimana

37. On 19 June 2008, the Chamber denied the Prosecutor's request to transfer the case of *Ildephonse Hategekimana* (former Lieutenant, Commander of Ngoma Camp), currently detained in Arusha, to Rwanda. After hearing the parties and four amici curiae, the Chamber was not satisfied that Rwandan law criminalizes command responsibility, nor that Rwanda could ensure Hategekimana's right to obtain attendance and examination of witnesses on his behalf under the same conditions as those against him. The Chamber also considered it possible that Hategekimana could face life imprisonment in isolation without adequate safeguard of his right not to be subjected to cruel, inhuman and degrading punishment. During this reporting period, the Chamber delivered seven decisions.

Kayishema

38. The Prosecutor's request to refer the case of one fugitive (*Fulgence Kayishema*, former inspector of police) is pending before Trial Chamber III. This year, the Chamber rendered nine decisions in that case, including regarding amici curiae requests from the Republic of Rwanda, the Kigali Bar Association, Human Rights Watch, International Criminal Defence Attorneys, and *Association des avocats de la défense auprès le TPIR*.

vii. Pretrial matters

39. Trial Chamber III is overseeing the trial-readiness of the *Hategekimana* case. The Chamber has delivered three pretrial decisions.

(d) Appeals Chamber

40. During the reporting period, the Appeals Chamber was seized of appeals on 5 judgements, 7 interlocutory appeals, 18 motions for review or reconsideration, and 4 motions concerning referral. The Appeals Chamber rendered 3 judgements, 7 interlocutory decisions, 15 decisions related to review or reconsideration, 1 decision concerning referral, and 65 pre-appeal orders and decisions.

i. Appeals from Judgement

Simba

41. Trial Chamber I found *Aloys Simba* (retired lieutenant colonel, former member of parliament) guilty of genocide and extermination as a crime against humanity and sentenced him to 25 years' imprisonment. The Appeals Chamber heard the parties on 22 May 2007 in Arusha. In its judgement of 27 November 2007, the Appeals Chamber dismissed Simba's appeal as well as the Prosecutor's appeal and affirmed Simba's convictions and sentence.

Nahimana et al.

42. Trial Chamber I found *Ferdinand Nahimana* (member of the steering committee which established *Radio Télévision Libre des Mille Collines*), *Jean-Bosco Barayagwiza* (member of the steering committee which established *Radio Télévision Libre des Mille Collines*; former Director of Political Affairs at the Ministry of Foreign Affairs) and *Hassan Ngeze* (founder and editor-in-chief of the newspaper Kangura) guilty of conspiracy to commit genocide, genocide, direct and

public incitement to commit genocide, and persecution and extermination as crimes against humanity. The Appeals Chamber heard the parties from 16 to 18 January 2007 in Arusha. In its judgement of 28 November 2007, while the Appeals Chamber affirmed some of the convictions against the accused, it also reversed some of the convictions against each of them. Consequently, the Appeals Chamber replaced Nahimana's sentence of life imprisonment with a sentence of 30 years, Barayagwiza's sentence of 35 years' imprisonment with a sentence of 32 years, and Ngeze's sentence of life imprisonment with a sentence of 35 years.

Seromba

43. Trial Chamber III convicted *Athanase Seromba* (priest) of genocide and extermination as a crime against humanity and sentenced him to 15 years' imprisonment. The Appeals Chamber heard the parties on 26 November 2007 in Arusha. In its judgement of 12 March 2008, the Appeals Chamber quashed the finding that Seromba aided and abetted genocide by certain acts and held that he committed genocide and extermination as a crime against humanity by virtue of his role in the destruction of a church and the consequent death of the approximately 1,500 Tutsi refugees sheltering inside. The Appeals Chamber affirmed that Seromba aided and abetted genocide in relation to killings of two people. Consequently, the Appeals Chamber quashed the sentence imposed by the Trial Chamber and entered a new sentence of life imprisonment.

Muvunyi

44. Trial Chamber II convicted *Tharcisse Muvunyi* (Lieutenant colonel, École des sous-officiers) for genocide, direct and public incitement to commit genocide, and other inhumane acts as a crime against humanity and sentenced him to 25 years' imprisonment. The Appeals Chamber was prepared to hear the merits of the appeals on 27 November 2007, but postponed the hearing upon emergency application, owing to the unavailability of lead counsel because of sudden illness. The Appeals Chamber heard the parties on 13 March 2008 in Arusha. Judgement is anticipated soon.

Karera

45. *François Karera* filed his notice of appeal on 14 January 2008 against the Trial Chamber judgement (see above, para. 11). All the parties' briefs are now filed and the appeal is being prepared for a hearing.

ii. Interlocutory Appeals: most significant decisions

Kanyabashi (Butare case), Decision on Joseph Kanyabashi's Appeal against the Decision of Trial Chamber II of 21 March 2007 concerning the Dismissal of Motions to Vary his Witness List, 21 August 2007

46. On 21 August 2007, the Appeals Chamber dismissed *Joseph Kanyabashi's* interlocutory appeal of a Trial Chamber decision denying the accused leave to expand his witness list and ordering him to file a revised list of witnesses containing not more than 30 witnesses. The Appeals Chamber found that the Trial Chamber properly considered whether reducing the number of witnesses would allow Kanyabashi the opportunity to present an adequate defence.

Karemera et al., Decision on Nzirorera's Interlocutory Appeal concerning his Right to be Present at Trial, 5 October 2007

47. On 5 October 2007, the Appeals Chamber granted *Joseph Nzirorera's* interlocutory appeal of a Trial Chamber decision denying his request to stay the proceedings in his absence due to ill health. The Appeals Chamber found that in the circumstances of this complex and lengthy case, a three-day delay of the trial was insufficient to outweigh the statutory right of an accused person to be present at his trial when the absence is due to no fault of his own.

Karemera et al., Decision on the Prosecution's Interlocutory Appeal concerning Disclosure Obligations, 23 January 2008

48. On 23 January 2008, the Appeals Chamber dismissed the prosecution's interlocutory appeal of two Trial Chamber decisions, one granting an accused's request to inspect certain witness statements in the possession of the prosecution, and the other denying the prosecution's request for reciprocal disclosure. The Appeals Chamber found no error in the Trial Chamber's conclusion that the requested witness statements were material to the preparation of the defence since their inspection may assist the accused in assessing the witness's credibility before deciding to add the witness to his list. In respect of the request for reciprocal disclosure, the Appeals Chamber emphasized that the right of reciprocal disclosure under rule 67(C) of the Rules of Procedure and Evidence applies only to material which the defence intends to use as evidence at trial. The Appeals Chamber affirmed the Trial Chamber's decision denying the request for reciprocal disclosure because the prosecution did not show that the defence intended to use the requested material as evidence at trial.

Karemera et al., Decision on Joseph Nzirorera's Appeal from Decision on Tenth Rule 68 Motion, 14 May 2008

49. On 14 May 2008, the Appeals Chamber granted *Joseph Nzirorera's* interlocutory appeal of a Trial Chamber decision finding that a certain document was not exculpatory. The Appeals Chamber stated that the correct test for determining whether certain material is to be considered as exculpatory within the meaning of rule 68 of the Rules of Procedure and Evidence is "whether there is any possibility, in light of the submissions of the parties, that the information could be relevant to the defence of the accused". Applying this test to the facts of the case, the Appeals Chamber held that the document in question was subject to disclosure.

iii. Motions for review or reconsideration (most significant decisions)

Rwamakuba, Decision on Appeal against Decision on Appropriate Remedy, 13 September 2007

50. On 13 September 2007, the Appeals Chamber dismissed *André Rwamakuba's* appeal of a Trial Chamber decision denying him compensation for alleged injustice related to his lengthy detention and allegedly tainted prosecution. The Appeals Chamber found no error in the Trial Chamber finding that it lacked authority to award compensation to Rwamakuba for his acquittal. Furthermore, the Appeals Chamber held that Rwamakuba did not substantiate his claim that he suffered injustice because he was indicted and prosecuted on allegedly false evidence and because of his pretrial detention. The Appeals Chamber also affirmed the Trial

Chamber's decision to award Rwamakuba $2,000 as compensation forming part of a remedy for the violations of his rights to legal assistance and initial appearance without delay.

Niyitegeka, Decision on Third Request for Review, 23 January 2008

51. On 23 January 2008, the Appeals Chamber denied *Eliézer Niyitegeka's* third request for review of the Appeal Judgement rendered in his case on 9 July 2004. The Appeals Chamber determined that Niyitegeka did not identify any new facts for purposes of review.

Ngeze, Decision on Hassan Ngeze's Motions and Requests related to Reconsideration, 31 January 2008 and Decision on Hassan Ngeze's Motion of 25 February 2008, 3 March 2008

52. On 31 January 2008 and 3 March 2008, the Appeals Chamber denied five motions brought by Hassan Ngeze in connection with a request for the Appeals Chamber to reconsider its judgement rendered in his case on 28 November 2007. The Appeals Chamber held that the statute of the Tribunal does not provide for reconsideration of final judgements.

Nahimana, Decision on Ferdinand Nahimana's Notice of Application for Reconsideration of Appeal Decision Due to Factual Errors Apparent on the Record, 21 April 2008

53. On 21 April 2008, the Appeals Chamber dismissed *Ferdinand Nahimana's* request for reconsideration of a point in the Appeal Judgement rendered in his case on 28 November 2007. The Appeals Chamber recalled that the statute of the Tribunal does not provide for reconsideration of final judgements.

C. Activity of the Office of the Prosecutor

54. During the reporting period, the Office of the Prosecutor arrested two high-level accused whose trials are expected to commence in 2008. The Office of the Prosecutor issued, for the first time, an indictment against one witness for giving false testimony and an indictment against a former investigator for contempt of court. It further filed five applications for orders referring the cases of four accused and one fugitive to Rwanda for trial. The Office of the Prosecutor has appealed the Trial Chambers' decisions denying three of these requests (see above). Following investigations by both the Office of the Prosecutor and the Office of the Prosecutor General of Rwanda, four senior Rwandan Army officers are prosecuted in Rwanda for war crimes. The Office of the Prosecutor has sent a representative to observe those proceedings. The Office of the Prosecutor continues to receive and to respond to requests for mutual legal assistance from national jurisdictions investigating for prosecution or extradition of Rwandan fugitives appearing on the International Criminal Police Organization (ICPO-INTERPOL) wanted list. The Office of the Prosecutor continued the hunt for the remaining 13 fugitives and particularly 4 high-level accused including Félicien Kabuga.

D. Activity of the Registry

1. Office of the Registrar

55. The Immediate Office of the Registrar maintained high-level diplomatic contacts with States and international organizations. Through formal and informal agreements, it secured their cooperation with the Tribunal in support to the smooth running of trials. During this reporting period, there was a significant increase in judicial cooperation with Members States. More than 294 notes verbales and correspondence requesting judicial assistance and cooperation from Member States for defence teams have been sent compared to approximately 120 during the previous year.

56. The Republic of Rwanda continued to cooperate with the Tribunal in facilitating the flow of witnesses from Kigali to Arusha and providing relevant documents to trial proceedings. In addition, on 4 March 2008, the Registrar signed an agreement on enforcement of sentences between the Republic of Rwanda and the United Nations.

57. One convicted person was transferred to Italy this year pursuant to the President's decision. The Registrar has taken action in connection with the designation of the States in which the remaining 20 convicted persons would serve their sentences. Assistance in renovating 14 and 23 cells was provided in detention facilities in Mali and Benin, respectively.

58. Two acquitted persons remain under the Tribunal's protection, despite the Registrar's strenuous efforts to find a country of residence for them. This issue, as well as that of the relocation of those convicted persons who will complete their sentence, is becoming increasingly crucial as the Tribunal moves towards its completion and requires the continuous support and cooperation of States.

59. The Protocol Support Services witnessed an almost 400 per cent increase in the number of persons visiting the Tribunal in the second half of 2007, compared to the previous period. The Tribunal has hosted the Under-Secretary-General for Legal Affairs, the United States Ambassador-at-Large for War Crimes, and numerous government ministers, as well as civil society representatives, human rights advocates, members of the Rwandan Genocide Survivors' Association and university students.

60. The Press and Public Affairs Unit continued to contribute to internal circulation of Tribunal-related media reports as well as to a wide diffusion of the Tribunal's activities through press briefings and press releases, its website, films and informational brochures, including case profile lists and posters. The Unit processed numerous local and international media enquiries and broadcasted several trial proceedings via satellite signal for use by media professionals and the public. It launched exhibitions on the work of the Tribunal in the United Republic of Tanzania, Rwanda and Uganda and organized the annual drawing and essay competition on the Tribunal for primary and secondary school students in Rwanda and the United Republic of Tanzania. A formal communication link was established with Universities in Kenya, Uganda, Burundi, Rwanda and the United Republic of Tanzania, and presentations on the work of the Tribunal were made at two East African Media Summits.

61. Through its Outreach Programme, the Tribunal conducted various workshops aimed at strengthening the Rwandan judicial capacity in areas such as international criminal law, advocacy skills, online legal research, rights of the accused, including law on indictments, and court information management. Two seminars on international criminal law were organized during the reporting period, each of them involving 20 Judges from the Rwandan Supreme and Appeals courts. Fifty members of the Rwandan Bar Association were taught on international criminal law and practice, and a group of 35 Rwandan prosecutors and legal officers in the Parquet Général were trained in information and evidence management, prosecution strategies and advocacy skills. Sessions involving 140 Rwandan prosecutors were organized, and more than 287 Rwandan students and 69 legal professionals attended training seminars on online legal research. Under the annual programme of research fellowship awards, six students from the National University of Rwanda spent eight weeks at the Tribunal conducting research in connection with the Tribunal's jurisprudence and international law under the supervision of staff members of the Tribunal from various sections. Workshops on the activities of the Tribunal and its contribution to the justice and reconciliation process in the country were conducted targeting specifically Rwandans living in rural areas and youths in secondary and higher institutions, including approximately 15,000 Rwandan students and teachers. All sessions and workshops were generously funded by the European Commission.

62. Under the coordination of the Special Adviser to the Registrar on Gender Issues, several online discussions with other agencies on sexual exploitation and abuse sensitivity guidance were implemented in addition to basic gender analysis training, and on-site gender training for mid-level and senior legal personnel has been undertaken. Sessions on gender sensitivity in the management of victims for security sector personnel are planned for mid-2008.

63. The Legal Services and Internship Programme Unit received a total of 175 interns. About 150 of them were legal interns assigned to the Office of the Prosecutor, Trial Chambers and Defence Teams. Ten legal researchers funded by the Voluntary Tribunal Trust Fund were assigned to Trial Chambers and the Office of the Prosecutor. The Unit is also in charge of liaising with the Office of Legal Affairs on specific legal issues.

2. Judicial and Legal Services Division

64. The Court Management Section provided support services to the Chambers and other stakeholders in the judicial process, including site visits in Rwanda and video-link hearings from various countries. The system for instantaneous production of transcripts was consolidated and presented throughout Africa, as part of capacity-building initiatives solicited by States. The user friendliness of the judicial records system was enhanced by converting all documents into full-text searchable material. The digitization and redaction of the collection of audio-visual recordings of the proceedings of the Tribunal was successfully initiated. The Court Management Section also conducted specialized sessions to strengthen the capacity of the Rwandan court system and maintained assistance in running the Legacy and Capacity-Building Committees of the Tribunal.

65. The Defence Counsel and Detention Management Section provided support to the various defence teams and detainees in Arusha. The Section improved the management system of fees and expense payment requests by creating an electronic,

web-based system allowing electronic filing and management of the requests. A lump-sum system for the payment of fees has also been introduced based on the different steps in trial proceedings. The system limits resources by hours or money for the pretrial and appeal stages. During trial, Counsel are allowed daily resources depending on whether they are attending hearings at the Tribunal.

66. During this reporting period, two prisoners were released after serving their respective sentences of six years and nine months of imprisonment and one prisoner was transferred to Italy to serve his sentence. As a result, as of 30 June 2008, the United Nations Detention Facility housed a total of 56 persons (36 detainees and 20 convicted persons), including two new detainees recently arrested and transferred to the Tribunal, one detainee whose referral to the Netherlands was revoked following his release and one convictee witness from Mali. Over the same period, the United Nations Detention Facility has received 28 detained witnesses from Rwanda called to testify in various trials. The International Committee of the Red Cross visited the United Nations Detention Facility on 7 November 2007 and 20 May 2008 and concluded that it conforms to international standards.

67. During this reporting period, the Witness and Victims Support Section ensured the timely availability of a total of 321 witnesses, who were brought from 27 countries in support of 11 trials involving 24 accused persons. Seven vulnerable witnesses were relocated. In accordance with protective measures ordered by the Trial Chambers, transcripts were redacted to expunge identifying information of witnesses or their family members, prior to making them public. The Witness and Victims Support Section has intensified its post-trial monitoring activities in the countries of residence of witnesses who appeared before the Tribunal. Several witnesses residing in Rwanda enjoyed a wide range of assistance aimed at improving their medical and psychological rehabilitation. The Witness and Victims Support Section was successful thanks to the cooperation of several States, which provided temporary travel documents enabling the witnesses to travel to and from Arusha, and UNHCR agencies in a number of African countries which assisted in facilitating the movement and the protection of witnesses. Some States, like Belgium, provided further assistance in escorting witnesses.

68. The Language Services Section has continued to provide interpretation, translation and reproduction services to the Chambers, the parties and the Registry. In addition, in the light of the completion strategy, a roster-building campaign aimed at selecting suitable simultaneous interpreters from various countries is scheduled for July-August 2008 with a view to pre-empting any potential disruption of the smooth running of trials.

69. The main achievement of the Legal Library and Reference Section during the reporting period is the release of a comprehensive full-text searchable International Criminal Tribunal for Rwanda Basic Documents and Case Law DVD (1995-2006), which is included in a web database that will then be updated. That tool seeks to promote access to the work of the Tribunal and its legacy. As part of the contribution of the Tribunal to capacity-building in Rwanda, trainings on online research methods and library/information management benefited more than 400 participants including Judges, Bar Association and Prosecution lawyers and law students. The Library also conducted a course on ICTs in libraries at the Kigali Institute of Education, and increased the collection of the Umusanzu International

Criminal Tribunal for Rwanda Information Centre library in Kigali in order to respond to the growing demand of Rwandan users.

3. Division of Administrative Support Services

70. Proper planning, control and monitoring of the utilization of the available resources of the Tribunal have continued to be a priority of the Division of Administration. As at 31 May 2008, the Tribunal had 879 staff members on board against an authorized complement of 1,032 posts, with 153 vacant posts, or a 14.8 per cent vacancy rate. Based on the separation notices received to date, this rate is expected to increase to 15.3 per cent as at the end of June, and if the current trend continues throughout the rest of the year, the vacancy rate is anticipated to be 15.1 per cent by the end of 2008. The staff gender proportion as of 31 May 2008 was 62 per cent for male and 38 per cent for female. Staff members in the Tribunal come from 86 countries. There was continued staff turnover. As the Tribunal downsizes, the Division of Administration has provided assistance in developing criteria to be used for determination of the number and composition of the staff to be retained to undertake the Tribunal's work to completion.

71. The Tribunal has launched several staff development programmes in order to enhance skills, support staff retention measures and improve productivity. Following the establishment of the Career Resource Centre, several career support programmes have been organized to assist staff. In addition to an aggressive recruitment policy, the Tribunal, with the support of the United Nations Secretariat, initiated a number of non-monetary incentives aimed at retaining staff until their posts are no longer needed and the mandate of the Tribunal is fully realized.

72. The Health Services, Counseling and Welfare Units continued to provide close medical follow-ups, long-term treatments for detainees and staff members as well as trauma counselling to the witnesses. The Counseling Unit offered professional psychological support to staff and their families, including emergency psychological sessions, and prepared and distributed regular bulletins on self-care and well-being to all staff.

73. In line with the completion strategy of the Tribunal, the General Services and Support Section developed a comprehensive liquidation plan, including repatriation of personnel, closure of offices and final disposal of assets of the Tribunal. Through improved collaboration with the relevant local authorities of the host country and United Nations security coordinator, the Security and Safety Section has embarked on reviewing security measures to improve efficiency and adequacy.

III. Conclusion and recommendations

74. The Tribunal is committed to fully discharging its mandate as effectively and efficiently as possible. Its workload is under control and moving fairly and expeditiously towards completion. Thanks to the concerted efforts of the three organs of the Tribunal, with the support of their dedicated staff, there has been remarkable progress in trial proceedings over the last 12 months. Consequently, the Tribunal has substantially complied with its completion strategy and begun its drawdown process. Two permanent judges assigned to the Trial Chambers and one ad litem judge will complete their assigned cases and resign by the end of 2008. No

arrangements for their replacement are considered necessary given the current and anticipated workload.

75. The Tribunal has additionally demonstrated its capacity to smoothly incorporate the additional workload caused by the three recent arrests and the revocation of the transfer of one case, without creating unjustified and excessive delay in the completion of its trial work.

76. These unforeseen developments require, however, adjustment of the terms of office of some judges. This matter has been brought to the attention of the Member States. Their continued assistance and cooperation remain paramount to the successful accomplishment of the vital mission of the Tribunal to fight against the impunity of those responsible for war crimes, crimes against humanity and genocide. The Tribunal therefore calls upon Member States:

(a) To provide sufficient resources to enable it to complete its work and mandate to bring to justice the persons most responsible for genocide and violations of international humanitarian law in Rwanda in 1994;

(b) To assist and cooperate in the arrest and transfer of the 13 remaining fugitives;

(c) To assist the Tribunal to resettle individuals acquitted by the Tribunal and those who have served their sentence;

(d) To remain receptive to discussions relating to the possible transfer of cases to their respective jurisdictions for trial;

(e) To continue to facilitate the travel of witnesses to and from the seat of the Tribunal, particularly in cases where witnesses do not have the required travel documents.

77. The Tribunal expresses its appreciation to the Member States for their steadfast support, which is crucial to the accomplishment of its work.

Annex I

Trial Chambers

Trial Chamber I

Judges E. Møse, Jai R. Reddy and Sergei A. Egorov

Bagosora et al. (4 co-accused) (judgement drafting)

Judges E. Møse, Sergei A. Egorov and Florence R. Arrey

Karera (judgement delivered)

Renzaho (judgement drafting)

Nsengimana (ongoing trial)

Kanyarukiga (referral — denied)

Gatete (referral)

Trial Chamber II

Judges William H. Sekule, Arlette Ramaroson and Solomy B. Bossa

Butare (6 co-accused) (ongoing trial)

Judges Asoka de Silva, Seon Ki Park and Taghrid Hikmet

Rugambarara (judgement delivered)

Rukundo (judgement drafting)

Ndindiliyimana (4 co-accused) (ongoing trial)

Bagaragaza (ongoing trial)

Judges Khalida R. Khan, Emile F. Short, Lee G. Muthoga

Bizimungu et al. (4 co-accused) (evidence completed)

Trial Chamber III

Judges Dennis C. M. Byron, Gberdao G. Kam and Robert Fremr

Nchamihigo (judgement drafting)

Judges Inés M. Weinberg de Roca, Florence R. Arrey and Robert Fremr

Bikindi (judgement drafting)

Judges Inés M. Weinberg de Roca, Khalida R. Khan and Lee G. Muthoga

Zigiranyirazo (judgement drafting)

Judges Dennis C. M. Byron, Gberdao G. Kam and Vagn Joensen

GAA (judgement delivered)

Karemera et al. (3 co-accused) (ongoing trial)

Kalimanzira (ongoing trial)

Judges Inés M. Weinberg de Roca, Lee G. Muthoga and Robert Fremr

Bucyibaruta (referral — granted)

Munyeshyaka (referral — granted)

Munyakazi (referral — denied)

Kayishema (referral)

Judges Khalida R. Khan, Asoka de Silva and Emile F. Short

Hategekimana (referral — denied)

Judges Dennis C. M. Byron, E. Møse and Lee G. Muthoga

Bagaragaza (referral — revoked)

Annex II

Appeals Chamber

Judge Fausto Pocar

Judge Mohamed Shahabuddeen

Judge Mehmet Güney

Judge Liu Daqun

Judge Andrésia Vaz

Judge Theodor Meron

Judge Wolfgang Schomburg

United Nations A/63/210–S/2008/515

General Assembly
Security Council

Distr.: General
4 August 2008

Original: English

General Assembly
Sixty-third session
Item 71 of the provisional agenda*
Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991

Security Council
Sixty-third year

Report of the International Tribunal for the Former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council the fifteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, submitted by the President of the International Tribunal in accordance with article 34 of the statute of the Tribunal (see S/25704 and Corr.1, annex) which states that:

> "The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly".

* A/63/150.

08-44882 (E) 260808

Letter of transmittal

4 August 2008

Excellencies,

I have the honour to submit the fifteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, dated 1 August 2008, to the General Assembly and the Security Council, pursuant to article 34 of the statute of the International Tribunal.

Please accept, Excellencies, the assurances of my highest consideration.

(*Signed*) Fausto **Pocar**
President

President of the General Assembly
United Nations
New York

President of the Security Council
United Nations
New York

Fifteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Summary

The fifteenth annual report of the International Criminal Tribunal for the Former Yugoslavia covers the period from 1 August 2007 to 31 July 2008.

During the reporting period, the Tribunal continued to adopt concrete measures aimed at increasing the efficiency of trial and appeal proceedings. For the first time in the history of the Tribunal, eight trials were conducted simultaneously by the three Trial Chambers, including three multi-accused trials involving 18 accused. In addition, the Appeals Chamber issued a record number of decisions, including six judgements in the past year and three in the last six months.

Proceedings before the Tribunal focused on the most senior-level individuals accused of the most serious crimes. All low- and mid-level accused have been referred back to the courts of the region pursuant to rule 11 bis.

The Tribunal also hosted an increasing number of working visits and training programmes for courts in the region in order to ensure the preservation of its legacy through the prosecution of war crimes cases by domestic courts.

Serge Brammertz was appointed Prosecutor in January 2008, replacing Carla Del Ponte. He concentrated his efforts on securing the arrest of the remaining fugitives. Stojan Župljanin and Radovan Karadžić were arrested and transferred to the seat of the Tribunal in June and July 2008, respectively. The failure to arrest the remaining two fugitives, Ratko Mladić and Goran Hadžić, remains of grave concern to the Tribunal.

The Office of the Prosecutor strengthened its relations with prosecutors and courts in the region through training sessions, conferences and seminars. The Office of the Prosecutor also worked closely with the governments of the States of the former Yugoslavia in order to improve their relationships with the Tribunal.

The Registry continued to play a crucial role in the provision of administrative and judicial support. During the reporting period, the Registrar, under the authority of the President, also assisted in the identification of residual issues, including possible residual mechanisms. The Registry continued negotiations for the relocation of witnesses and enforcement of sentence agreements, successfully concluding three new agreements.

The Outreach Programme carried out a diverse range of activities with a view to increasing the profile of the Tribunal and bringing its judgements to the relevant communities. Court Management Services supported 12 trials and maintained all relevant documentation. The Victim and Witnesses Section assisted numerous witnesses and accompanying persons in The Hague and continued its work in relocating protected witnesses.

The Office of Legal Aid continued to support the assignment of Defence Counsel to accused at the Tribunal. It also addressed requests to facilitate the self-representation of high-profile accused.

The Human Resources Section recruited 76 staff in the Professional and higher categories and 124 General Service staff. The section oversaw the administration of a total of 1,146 staff members.

To date, the Tribunal has concluded proceedings against 114 accused out of the 161 indicted. The report that follows details the activities of the Tribunal during the reporting period and illustrates the Tribunal's unwavering commitment to meeting the completion strategy targets without sacrificing due process.

Contents

		Paragraphs	*Page*
I.	Introduction	1–4	5
II.	Activities involving the entire Tribunal	5–31	5
	A. President	5–27	5
	B. Bureau	28	8
	C. Coordination Council	29	9
	D. Plenary sessions	30	9
	E. Rules Committee	31	9
III.	Activity of Chambers	32–64	9
	A. Composition of the Chambers	32–38	9
	B. Principal activity of the Trial Chambers	39–59	10
	C. Principal activities of the Appeals Chamber	60–64	14
IV.	Activity of the Office of the Prosecutor	65–89	15
	A. Overview	65–67	15
	B. Activity of the Prosecutor	68–89	15
V.	Activity of the Registry	90–115	18
	A. Office of the Registrar	93–96	19
	B. Judicial Support Services Section	97–109	19
	C. Administrative Support Services Division	110–115	21

I. Introduction

1. The fifteenth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia ("ICTY") outlines the activities of the Tribunal for the period from 1 August 2007 to 31 July 2008.

2. During the reporting period, the Tribunal took steps towards implementing its completion strategy endorsed by Security Council resolution 1503 (2003). Judge Fausto Pocar (Italy) continued to serve as President, following his re-election at the plenary meeting of Judges in September 2007, and Judge Kevin Parker (Australia) continued to serve as Vice-President, following his re-election at the same time.

3. To date, the Tribunal has concluded proceedings against 114 accused out of a total of 161 indicted accused. The Tribunal's three Trial Chambers operated at full capacity, running seven trials and, as of March 2008, eight trials simultaneously. The Trial Chambers rendered 213 decisions on pretrial matters in 8 cases, heard 1 contempt case, and rendered 5 judgements. The Appeals Chamber also expedited its work, issuing 123 decisions comprising 6 appeals from judgement, 32 interlocutory appeals, 79 pre-appeal decisions and 6 review, reconsideration or other decisions.

4. The Tribunal pursued initiatives to strengthen national judiciaries in the former Yugoslavia and further improved its outreach activities. The President was actively engaged in efforts towards improving relations with the region as well as the broader international community.

II. Activities involving the entire Tribunal

A. President

5. President Pocar pushed forward a number of innovative reforms directed at expediting the completion of the Tribunal's work without sacrificing due process.

1. Internal reforms

6. The concrete measures identified by the working groups on speeding up trials and appeals were fully implemented and are detailed in the Tribunal's completion strategy reports to the Security Council.[1] In March 2008, President Pocar re-established both groups to review the success of the measures and to assess whether additional measures should be considered.

7. Following the approval of the Security Council in February 2008, the President appointed 2 additional ad litem judges above the statutory limit of 12 to allow the Tribunal to commence 2 new trials and bring the number of simultaneous trial proceedings to 8.

8. The most important rule amendment adopted during the reporting period was the amendment of rule 75(H) to allow victims or witnesses for whom protective

[1] S/2005/781 of 15 December 2005; S/2006/353 of 31 May 2006; S/2006/898 of 16 November 2006; S/2007/283 of 16 May 2007.

measures have been ordered to directly petition the Tribunal to rescind, vary or augment these protective measures.

9. Finally, the e-Court system was applied in all trials, resulting in a significant savings in court time.

2. External reforms

10. The Tribunal continued to enhance the capacity of national courts through several working visits and training programmes. Key materials were distributed to the region, while the Tribunal website served as a vital conduit for up-to-date information on its work.

11. The Tribunal also initiated two joint projects to secure the preservation of its legacy through the transmission of its expertise to other Courts. With the assistance of the United Nations Interregional Crime and Justice Research Institute (UNICRI), the Tribunal is compiling a manual of its best practices, which can be transferred for use in other international or domestic jurisdictions involved in the prosecution of war crimes cases. Also, in partnership with the Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights, the Tribunal is assessing the success of its capacity-building efforts and identifying what work remains to be done to ensure that local judiciaries have the capacity to continue the work of the Tribunal long after it completes its mandate.

3. Diplomatic relations and other representation

12. President Pocar was actively involved in cooperation and outreach activities to secure support for the work of the Tribunal and increase its international profile.

13. In August 2007, President Pocar met separately with the Ambassador of China and representatives of the United States of America.

14. In September 2007, President Pocar met separately with Ambassadors of Croatia, Japan, Belgium and the United States of America. On 5 September, President Pocar addressed diplomats from more than 60 countries at a diplomatic seminar organized by the Organisation internationale de la francophonie in Brussels. In his presentation, President Pocar gave an overview of the jurisprudential developments and achievements of the Tribunal before attending a round table with the Prosecutor and the Registrar, who also addressed the audience. President Pocar also participated in a round-table discussion on the International Criminal Court (ICC) at the Ministry of Foreign Affairs of the Netherlands, entitled "Impact of the ICC 5 Years On".

15. In October 2007, the Ambassadors of Mexico and of Bosnia and Herzegovina met separately with President Pocar. The President also met with members of the Macedonian judiciary during their three-day visit to the Tribunal to participate in a training programme on international humanitarian law supported by the OSCE Spillover Monitor Mission to Skopje, the United States Department of Justice, the Ministry of Justice of Macedonia and the Academy of Judicial Training in Skopje. Prosecutors from the Cantonal Court of Sarajevo also made a working visit to the Tribunal and met with President Pocar.

16. In November 2007, President Pocar welcomed Bosnian delegations from Sarajevo, who also visited the Tribunal to participate in training workshops.

17. In December 2007, the Ambassador of Poland met President Pocar at the Tribunal. President Pocar further participated in a meeting of Presidents of international courts in The Hague.

18. On 24 January 2008, more than 80 representatives of the diplomatic corps in the Netherlands attended a diplomatic briefing at the Tribunal. After President Pocar introduced the Prosecutor, Serge Brammertz, to the audience, the President, the Prosecutor and the Registrar briefed the group on the work of the Tribunal. In addition, the Prime Minister of the former Yugoslav Republic of Macedonia and the Minister for Foreign Affairs of Slovenia paid separate visits to the Tribunal to meet the President and the Prosecutor in January 2008.

19. In February 2008, President Pocar met with the Ambassador of Spain at the Tribunal. A Croatian delegation also visited the Tribunal and met the President. In addition, President Pocar held a meeting at the Tribunal with the Prosecutor of the State Court of Bosnia and Herzegovina.

20. In March 2008, President Pocar met at the Tribunal with a delegation from the Serbian Embassy and with representatives of the United Kingdom of Great Britain and Northern Ireland. President Pocar, the Registrar, and representatives of the Office of the Prosecutor also travelled with a delegation to Turin to attend a UNICRI conference, entitled "Promoting the Legacy of International Tribunals". In addition, President Pocar presented several lectures for the United Nations Audio-visual Library on International Law.

21. In April 2008, the President received the Austrian Ambassador at the Tribunal. He also met with the President of Brazil.

22. In May 2008, the President met the Ambassador of Bangladesh at the Tribunal. He was also visited by the President of the Cour de cassation of Belgium, the Head of the OSCE delegation in Bosnia and Herzegovina and the President of the International Criminal Tribunal for Rwanda. Further, the President welcomed a group of Cantonal and District Prosecutors from Bosnia and Herzegovina who paid a two-day working visit to the Tribunal. On 19 May, the President travelled to Bosnia and Herzegovina on a three-day working visit. He discussed the country's cooperation with the International Criminal Tribunal for the Former Yugoslavia, the escape of Radovan Stanković from the Foča prison, and issues related to the legacy of the Tribunal with a number of interlocutors, including the Presidency of Bosnia and Herzegovina, other state representatives and members of the judiciary and victims' associations. President Pocar also travelled to the town of Foča and visited the Foča prison. On 27 May, the President travelled to Vienna, where he met the Ambassador of the OSCE Office for Democratic Institutions and Human Rights and initiated a joint project focusing on support for national judicial authorities in the former Yugoslavia. On 28 May in Brussels, the President addressed in Brussels the Working Group on Public International Law of the Council of the European Union about the jurisprudence and the legacy of the Tribunal.

23. In June 2008, the President received at the Tribunal Her Royal Highness, Princess Astrid of Belgium. He also met with the President of the International Court of Justice. On 10 June, the President, the Prosecutor and the Registrar held a briefing for the diplomatic community in The Hague, addressing more than 60 representatives of States and international organizations on developments at the International Criminal Tribunal for the Former Yugoslavia and progress made in the

completion of its mandate. In his speech, President Pocar highlighted the importance of capacity-building and cooperation with the judicial institutions in the region as part of the legacy of the Tribunal. On 22 June, the President travelled to Ljubljana, where he met the Slovenian President and Minister for Foreign Affairs, as well as the State Secretary and Head of the Government Office for European Affairs. The completion strategy and achievements of the Tribunal, as well as the preservation of the institution's legacy, were discussed.

24. In July 2008, the Ambassadors of the United States of America and Chile paid two separate visits to President Pocar at the Tribunal. The President also met with representatives of the Netherlands.

25. The President and the Prosecutor reported to the United Nations on several occasions. On 15 October 2007, President Pocar addressed the General Assembly regarding the Tribunal's fourteenth annual report. On 10 December 2007, President Pocar addressed the Security Council regarding the seventh completion strategy report of the Tribunal. On 11 December 2007, the President, the Prosecutor and the Registrar participated in a meeting of the Security Council Working Group on the ad hoc Tribunals to discuss the Tribunals' legacy. In February 2008, President Pocar travelled to New York to discuss issues pertaining to the completion strategy with the Security Council Working Group on the ad hoc Tribunals. A further meeting between the President, the Registry and the Security Council Working Group on the ad hoc Tribunals was held in the same month via videoconference to discuss the temporary increase of ad litem judges necessary to start new cases. On 4 June 2008, the President and the Prosecutor briefed the Security Council on the completion strategy of the Tribunal.

26. In October 2007, President Pocar attended an informal meeting of legal advisers of ministries of foreign affairs in New York, where he addressed the latest developments in the jurisprudence of the Tribunal, the proliferation of international jurisdictions, and matters related to the completion strategy. Presidents of other international courts also attended the meeting.

4. Judicial activity

27. By virtue of the powers vested in him by the statute, the Rules and the Practice Directions of the Tribunal, the President issued numerous orders assigning cases to Chambers; reviewed several decisions of the Registrar; issued orders designating the State in which Mladen Naletilić, Vinko Martinović, Haradin Bala, Momir Nikolić, Dragan Zelenović, Vidoje Blagojević and Dragan Jokić are to serve their sentences; granted three requests for early release and rejected two other applications for pardon or commutation of sentence.

B. Bureau

28. Pursuant to rule 23, the Bureau is composed of the President, the Vice-President and the Presiding Judges of the Trial Chambers. The President consulted the Bureau on issues relating to the functioning of the Tribunal and on requests for early release or commutation of sentence.

C. Coordination Council

29. Pursuant to rule 23 bis, the Coordination Council consists of the President, the Prosecutor and the Registrar. During the reporting period, the Council met monthly to discuss, inter alia, staff retention, translation priorities, diplomatic relations, the Detention Unit, budgetary submissions and the use of the judicial recess for court hearings.

D. Plenary sessions

30. During the reporting period, the judges held one regular plenary session and one extraordinary plenary session. At the extraordinary plenary session of 26 September 2007, Judge Fausto Pocar and Judge Kevin Parker were re-elected by acclamation to the positions of President and Vice-President of the Tribunal, respectively. At the plenary session of 28 February 2008, rules 67 and 75 were amended.

E. Rules Committee

31. The Rules Committee is comprised of Judge Agius (Chair), President Pocar, Vice-President Parker and Judges Alphons Orie and O-Gon Kwon. The non-voting members include two representatives each from the Office of the Prosecutor, the Registry and the Association of Defence Counsel.

III. Activity of Chambers

A. Composition of the Chambers

32. Today, the Tribunal has 30 judges from 27 countries. The Chambers are composed of 14 permanent judges, two permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber, and 14 ad litem Judges.

33. The permanent judges are: Fausto Pocar (President, Italy), Kevin Parker (Vice-President, Australia), Patrick Robinson (Presiding, Jamaica), Carmel Agius (Presiding, Malta), Alphons Orie (Presiding, the Netherlands), Mohamed Shahabuddeen (Guyana), Liu Daqun (China), Theodor Meron (United States of America), Wolfgang Schomburg (Germany), O-Gon Kwon (South Korea), Jean-Claude Antonetti (France), Iain Bonomy (United Kingdom of Great Britain and Northern Ireland), Christine Van den Wyngaert (Belgium) and Bakone Justice Moloto (South Africa). The permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber are: Mehmet Güney (Turkey) and Andrésia Vaz (Senegal).

34. During the reporting period, the following served as ad litem Judges: Krister Thelin (Sweden), Janet Nosworthy (Jamaica), Frank Höpfel (Austria), Árpád Prandler (Hungary), Stefan Trechsel (Switzerland), Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), Ali Nawaz Chowhan (Pakistan), Tsvetana Kamenova (Bulgaria), Kimberly Prost (Canada), Ole Bjørn Støle (Norway),

Frederik Harhoff (Denmark), Flavia Lattanzi (Italy), Pedro David (Argentina), Michèle Picard (France), Uldis Ķinis (Latvia) and Elizabeth Gwaunza (Zimbabwe).

35. Trial Chamber I is composed of: Judges Orie (Presiding), Van den Wyngaert and Moloto. The ad litem Judges are: Lattanzi, Harhoff, Gwaunza and Ķinis. Section 1 of the Chamber consists of Judge Orie (Presiding), Gwaunza and Ķinis, and Section 2 consists of Judges Moloto (Presiding), Lattanzi and Harhoff.

36. Trial Chamber II is composed of: Judges Agius (Presiding), Parker and Kwon. The ad litem Judges are: Prost and Støle (as reserve ad litem Judge). Section 1 of the Chamber consists of Judges Agius (Presiding), Kwon, Prost and Støle, and section 2 consists of Judge Parker (Presiding) and, until recently, Judges Van den Wyngaert and Thelin.

37. Trial Chamber III is composed of: Judges Robinson (Presiding), Antonetti and Bonomy. The five sections are: Judges Bonomy (Presiding), Chowhan, Kamenova and Nosworthy (as reserve ad litem Judge); Judges Antonetti (Presiding), Prandler, Trechsel and Mindua (as reserve ad litem Judge); Judges Antonetti (Presiding), Harhoff and Lattanzi; Judges Robinson (Presiding), David and Picard; and Judges Robinson (Presiding), Van den Wyngaert and David.

38. Lastly, the Appeals Chamber is composed of Judges Pocar (Presiding), Shahabuddeen, Güney, Liu, Vaz, Meron and Schomburg.

B. Principal activity of the Trial Chambers

1. Trial Chamber I

(a) Pretrial

Perišić

39. Momčilo Perišić is charged with violations of the laws or customs of war and crimes against humanity allegedly committed between August 1993 and November 1995 in Sarajevo and Srebrenica (Bosnia and Herzegovina), as well as in Zagreb (Croatia). The Trial Chamber is composed of Judges Orie (Presiding), Van den Wyngaert and Moloto (pretrial judge). Trial is scheduled to commence on 1 October 2008.

Haraqija and Morina

40. Astrit Haraqija and Bajrush Morina are charged with contempt of the Tribunal for alleged intimidation and interference with a protected witness. The Trial Chamber is composed of Judges Orie (Presiding), Van den Wyngaert and Moloto. Trial is scheduled for 8 to 12 September 2008.

(b) Trial

Milošević

41. Dragomir Milošević was charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Sarajevo (Bosnia and Herzegovina) between August 1994 and November 1995. The Trial Chamber was composed of Judges Robinson (Presiding), Mindua and Harhoff. Judgement was

delivered on 12 December 2007. The accused was sentenced to 33 years of imprisonment.

Haradinaj, Balaj and Brahimaj

42. Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj were charged with crimes against humanity and violations of the laws or customs of war allegedly committed in 1998 in Kosovo. The Trial Chamber was composed of Judges Orie (Presiding), Höpfel and Støle. Judgement was delivered on 3 April 2008. The accused Brahimaj was sentenced to six years of imprisonment. The accused Haradinaj and Balaj were acquitted.

Gotovina, Čermak and Markač

43. Ante Gotovina, Ivan Čermak and Mladen Markač are charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Croatia in 1995. The Trial Chamber is composed of Judges Orie (Presiding), Kinis and Gwaunza. Trial commenced on 10 March 2008.

Delić

44. Rasim Delić is charged with violations of the laws or customs of war allegedly committed between July 1993 and December 1995 in Bosnia and Herzegovina. The Trial Chamber is composed of Judges Moloto (Presiding), Harhoff and Lattanzi. Trial commenced on 9 July 2007 and the evidence closed on 11 June 2008. The date for delivery of the judgement remains to be scheduled.

Haxhiu

45. Baton Haxhiu was charged with contempt of the Tribunal for writing and publishing an article which revealed the identity of a protected witness in the *Haradinaj et al.* case. Trial took place on 24 June 2008. On 24 July 2008, the judgement was delivered, finding the accused guilty of contempt and imposing a fine of €7,000.

2. Trial Chamber II

(a) Pretrial

M. Stanišić

46. Mićo Stanišić is charged with crimes against humanity and violations of the laws or customs of war allegedly committed in 1992 in Bosnia and Herzegovina. The Trial Chamber is composed of Judges Kwon (Presiding), Prost and Støle (pretrial judge). The trial has not yet been scheduled.

Župljanin

47. Stojan Župljanin is charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Bosnia and Herzegovina in 1992. The Trial Chamber is composed of Judges Kwon (Presiding), Prost and Støle (pretrial judge). The accused was transferred to The Hague on 21 June 2008.

Tolimir

48. Zdravko Tolimir is charged with genocide, conspiracy to commit genocide, crimes against humanity and a violation of the laws or customs of war allegedly committed in Bosnia and Herzegovina in 1995. The Trial Chamber is composed of Judges Agius (Presiding), Kwon and Prost (pretrial judge). The trial has not yet been scheduled.

(b) Trial

Mrkšić, Radić and Šljivančanin

49. Mile Mrkšić, Miroslav Radić and Veselin Šljivančanin were charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Croatia in November 1991. The Trial Chamber was composed of Judges Parker (Presiding), Van den Wyngaert and Thelin. Judgement was delivered on 27 September 2007. The accused Mrkšić was sentenced to 20 years of imprisonment, the accused Šljivančanin was sentenced to five years of imprisonment and the accused Radić was acquitted.

Boškoski and Tarčulovski

50. Ljube Boškoski and Johan Tarčulovski were charged with violations of the laws or customs of war allegedly committed in the former Yugoslav Republic of Macedonia in August 2001. The Trial Chamber was composed of Judges Parker (Presiding), Van den Wyngaert and Thelin. Trial commenced on 16 April 2007 and concluded on 8 May 2008. Judgement was delivered on 10 July 2008. The accused Boškoski was acquitted on all counts and the accused Tarčulovski was sentenced to 12 years of imprisonment.

Popović et al.

51. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin and Vinko Pandurević are charged with genocide, conspiracy to commit genocide, crimes against humanity and a violation of the laws or customs of war. Radivoje Miletić and Milan Gvero are charged with crimes against humanity and a violation of the laws or customs of war. The crimes charged were allegedly committed in Bosnia and Herzegovina in 1995. The Trial Chamber is composed of Judges Agius (Presiding), Kwon, Prost and Støle (reserve judge). Trial commenced on 14 July 2006. The defence case started on 2 June 2008.

3. Trial Chamber III

(a) Pretrial

Đorđević

52. Vlastimir Đorđević was indicted in October 2003 and was arrested on 17 June 2007 in Montenegro. His initial appearance was held on 19 June 2007 before the designated pretrial Judge, Frederick Harhoff. The accused was originally joined in the indictment in the case of *Milutinović et al.*, but his case was severed from his co-accused owing to the lateness of his arrest. Like his co-accused, he is charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Kosovo in 1999. The case will be ready for trial by October 2008.

J. Stanišić and Simatović

53. Jovica Stanišić and Franko Simatović are charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Croatia and Bosnia and Herzegovina between April 1991 and December 1995. The trial bench is composed of Judges Robinson (Presiding), David and Picard. Trial commenced on 28 April 2008. Owing to the health condition of the accused Stanišić, on 16 May 2008, the Appeals Chamber adjourned the proceedings for a minimum of three months and directed the Trial Chamber to reassess Stanišić's state of health before deciding when the trial should commence.

Petković

54. Ljubiša Petković is charged with contempt of the Tribunal for failing to comply with a subpoena issued by the Trial Chamber, ordering him to appear as a Chamber witness in the *Šešelj* case. The Trial Chamber is composed of Judges Antonetti (Presiding), Lattanzi and Harhoff. Trial is scheduled for 3 September 2008.

(b) Trial

Šešelj

55. Vojislav Šešelj is charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Croatia, Bosnia and Herzegovina and Vojvodina (Serbia) between August 1991 and September 1993. The Trial Chamber is composed of Judges Antonetti (Presiding), Harhoff and Lattanzi. Trial began anew on 7 November 2007.

Milutinović et al.

56. Milan Milutinović, Nikola Šainović, Dragoljub Ojdanić, Nebojša Pavković, Vladimir Lazarević and Sreten Lukić are charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Kosovo in 1999. The Trial Chamber is composed of Judges Bonomy (Presiding), Chowhan, Kamenova and Nosworthy (reserve judge). Trial commenced on 10 July 2006. The Chamber recessed on 21 May 2008, and the President reported to the Security Council regarding Serbia's failure to serve a summons on a potential Chamber witness. Following that report, Serbia served a subpoena on the witness, and in July 2008 the Chamber heard the witness' testimony. The Chamber recessed following this evidence until the closing statements which are scheduled for 19 to 22 August 2008.

Prlić et al.

57. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić are charged with grave breaches of the Geneva Conventions, crimes against humanity and violations of the laws or customs of war allegedly committed between November 1991 and April 1994 in Bosnia and Herzegovina. The Trial Chamber is composed of Judges Antonetti (Presiding), Trechsel, Prandler and Mindua (reserve judge). Trial commenced on 26 April 2006. The prosecution case has ended, and the Chamber began hearing defence evidence on 5 May 2008.

M. Lukić and S. Lukić

58. Milan Lukić and Sredoje Lukić are charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Bosnia and Herzegovina between June 1992 and October 1994. The Trial Chamber is composed of Judges Robinson (Presiding), Van den Wyngaert and David. Trial commenced on 9 July 2008.

4. Referral Bench

59. There were no referral decisions during this reporting period; however, the Referral Bench continued to assess the previously referred cases through periodic progress reports submitted by the Prosecutor.

C. Principal activities of the Appeals Chamber

1. Interlocutory appeals

60. Thirty-two decisions on interlocutory appeals were issued in the following cases: *Milutinović et al.* (3); *Delić* (1); *Gotovina et al.* (2); *Popović et al.* (7); *Prlić et al.* (11); *Šešelj* (4); *Stanišić and Simatović* (2); *Tolimir* (1); and *Petković* (1). Five interlocutory appeals are currently pending in the following cases: *Popović et al.* (2); *Prlić et al.* (2); and *Perišić* (1).

2. Request for review

61. One request for review of the appeal judgement was issued in the *Blagojević* case. One request for review is currently pending in the *Naletilić* case.

3. Appeals on the merits

62. The Appeals Chamber rendered six final Judgements in the cases of *Limaj et al.*, *Halilović*, *Zelenović*, *Hadžihasanović and Kubura*, *Orić* and *Strugar*. On 27 September 2007, the Appeals Chamber dismissed the appeals of the prosecution and Haradin Bala in their entirety and confirmed the latter's sentence of 13 years of imprisonment as well as the acquittals of Fatmir Limaj and Isak Musliu. On 16 October 2007, the Appeals Chamber dismissed the prosecution's appeal and affirmed Sefer Halilović's acquittal. On 31 October 2007, the Appeals Chamber dismissed Dragan Zelenović's appeal in its entirety and affirmed his sentence of 15 years of imprisonment. On 22 April 2008, it allowed Enver Hadžihasanović's appeal in part and reduced his sentence of five years of imprisonment to three years and six months of imprisonment. Amir Kubura's appeal was also allowed in part, and the Appeals Chamber reduced his sentence of two years and six months of imprisonment to two years of imprisonment. On 3 July 2008, the Appeals Chamber dismissed the prosecution's first ground of appeal, allowed Naser Orić's appeal in part, declined to consider all other grounds of appeal raised by the parties and reversed the convictions of Orić. On 17 July 2008, the Appeals Chamber dismissed all grounds of appeal by Strugar, allowed two grounds of appeal by the prosecution, entered two new convictions, took into account Strugar's post-trial health as a mitigating circumstance and entered a new sentence of seven and a half years of imprisonment.

63. During the reporting period, new appeals from judgement were filed before the Appeals Chamber in the *Mrkšić*, *Dragomir Milošević* and *Haradinaj et al.* cases. Two appeals are currently pending before the Appeals Chamber from the previous reporting period, in the *Krajišnik* and *Martić* cases. Pre-appeal activity is ongoing in the *Haradinaj et al.*, *Krajišnik*, *Dragomir Milošević* and *Mrkšić* cases. A total of 79 pre-appeal decisions and orders have been issued in the reporting period. The *Martić* case is in judgement-preparation stage and the *Krajišnik* case is currently being prepared for hearings.

4. Other appeals

64. The Appeals Chamber rendered five decisions on other appeals in the following cases: *Gotovina et al.*, *Slobodan Milošević*, *Limaj et al.*, *Zelenović* and *Tolimir*.

IV. Activity of the Office of the Prosecutor

A. Overview

65. During the reporting period, the work of the Office of the Prosecutor continued apace and in many areas increased. Radovan Karadžić and Stojan Župljanin were arrested during this period. Ratko Mladić and Goran Hadžić remain at large.

66. The Office of the Prosecutor focused on completing trials and appeals proceedings, international cooperation and the arrest of fugitives, the transfer of cases and material and capacity-building.

67. Serge Brammertz was appointed by the Security Council as new Prosecutor in November 2007 and took office on 1 January 2008. Norman Farrell was appointed as Deputy Prosecutor, taking up his duties on 1 July 2008.

B. Activity of the Prosecutor

1. Completion of trials and appeals proceedings

68. Throughout the reporting period, the efforts of the Office of the Prosecutor concentrated on completing trials and appeals in accordance with the Tribunal's completion strategy. Compared with the previous year, the number of trials has increased. By the end of the reporting period, the Office of the Prosecutor was prosecuting 26 persons in 7 simultaneous trials, 2 of which were awaiting judgement. The cases of seven accused were at the pretrial stage, one of which had commenced earlier but was adjourned because of the health of an accused. One contempt case has been completed, and a further contempt case, involving two accused, is awaiting trial. Two accused remain at large.

69. During the reporting period, judgements were rendered in the *Mrkšić et al.*, *Dragomir Milosević*, *Haradinaj et al.* and *Boškoski and Tarčulovski* cases. The *Delić* case is awaiting judgement. The *Milutinović et al.* case, the first of the multi-accused cases, is nearing completion. In the two other multi-accused trials, *Prlić et al.* and *Popović et al.*, the prosecution completed its case.

70. To speed up work, the Office of the Prosecutor has, whenever feasible, proposed to join related cases. However, the cases against Vlastimir Đorđević and Zdravko Tolimir, arrested in June 2007, could not be joined with other related cases, and this has led to an increase in the workload of the Office of the Prosecutor. The request to join the *Tolimir* case to the *Popović et al.* trial was denied on account of the advanced stage of the existing trial. Joining the *Đorđević* case to the *Milutinović et al.* trial was impossible from the outset since the prosecution had already concluded its case. The Office of the Prosecutor intends to file a motion for joinder of the *Župljanin* case with the *M. Stanišić* case.

71. The Office of the Prosecutor was also involved in appellate proceedings on the merits in the following cases: *Krajišnik*, *Halilović*, *Zelenović*, *Hadžihasanović and Kubura*, *Orić*, *Martić*, *Strugar*, *Mrkšić et al.*, *D. Milošević*, *Haradinaj et al.* and *Limaj et al.*

2. Cooperation of States

72. In order to fulfil its mandate, during the reporting period, the Office of the Prosecutor continued to seek the full cooperation of States in the former Yugoslavia and other States, as required under article 29 of the statute.

73. Cooperation from States in the former Yugoslavia remains vital in several areas: the access to archives and the provision of documents, access to and protection of witnesses, and the search for and arrest and transfer of the remaining fugitives, including taking the necessary measures against those who continue to support them.

74. The Prosecutor spent substantial time and effort seeking the assistance of States in all these areas. Both Prosecutor Carla Del Ponte (between 1 August and 31 December 2007) and Prosecutor Serge Brammertz (since 1 January 2008) met on several occasions with political and judicial authorities and representatives of the international community in Bosnia and Herzegovina, Croatia, Serbia and Montenegro. The Prosecutor regularly receives ambassadors based in The Hague.

Serbia

75. Serbia has provided adequate responses to a number of requests for assistance. However, significant obstacles remain in relation to access to some key archives and documents for ongoing trials or those that are in the pretrial phase.

76. The Office of the Serbian War Crimes Prosecutor has facilitated the appearance of certain important witnesses and on several occasions taken actions to protect International Criminal Tribunal for the Former Yugoslavia witnesses who received threats. However, interference with witnesses, particularly in the form of witness intimidation and the growing failure of witnesses to appear voluntarily to testify remains a grave concern of the Office of the Prosecutor.

77. The apprehension of the remaining fugitives remains the most critical area of cooperation. On 11 June, Stojan Župljanin was arrested by Serbian authorities. He was transferred to The Hague on 21 June 2008. On 21 July, Radovan Karadžić was arrested by Serbian authorities. He was transferred to The Hague on 30 July 2008. The National Security Council of Serbia, the Action Team in charge of tracking International Criminal Tribunal for the Former Yugoslavia fugitives and the Office of the War Crimes Prosecutor had a central role in the arrests.

78. During the first part of the reporting period, the pace of work of security agencies in charge of tracking fugitives was generally slow and there was a lack of coordination. However, the arrests of Stojan Župljanin and even more, Radovan Karadžić, who was a fugitive for over a decade, demonstrate the improvement in Serbia's cooperation with the Tribunal. The Office of the Prosecutor will continue to work closely with the authorities and security agencies in the hope of arresting the two remaining fugitives

Croatia

79. The Office of the Prosecutor requested Croatia to grant access to Government archives and produce documents in the *Prlić* and *Ante Gotovina* cases, two cases for which Croatia's cooperation is required. Although certain archival materials were made available, requests for key documents are still pending. In the *Ante Gotovina* case, the Office of the Prosecutor has requested the Court to order Croatia under rule 54 bis to produce these crucial documents and information.

Bosnia and Herzegovina

80. The authorities of Bosnia and Herzegovina have granted access to Government archives and provided documents requested. Moreover, the authorities continued to provide adequate responses to requests for assistance and facilitate the appearance of witnesses before the Tribunal. The authorities are encouraged to continue taking proactive steps against those engaged in helping fugitives evade justice or otherwise obstructing the Tribunal's effective implementation of its mandate.

The former Yugoslav Republic of Macedonia

81. The cooperation of the authorities of the former Yugoslav Republic of Macedonia with the Office of the Prosecutor in relation to the *Boškoski and Tarčulovski* trial was generally satisfactory.

Montenegro

82. During the reporting period, the Office of the Prosecutor continued to seek cooperation from Montenegro to take the necessary action against the networks supporting fugitives. The Office of the Prosecutor encourages Montenegro to continue taking all necessary measures in this regard.

Cooperation from other States and organizations

83. The support of the international community and of international and regional organizations remains essential to the activities of the Office of the Prosecutor. The Office of the Prosecutor continued to request States to provide documents and information necessary for the preparation of its trials and appeals. Assistance and support from States to arrest remaining fugitives also remained crucial.

84. In Bosnia and Herzegovina, the Office of the Prosecutor continued to enjoy close cooperation with and support from the Office of the High Representative, European Union Force (EUFOR) and the North Atlantic Treaty Organization.

85. The Office of the Prosecutor appreciates the support provided by international and regional organizations such as the European Union, the Organization for

Security and Cooperation in Europe (OSCE), the Council of Europe and non-governmental organizations.

3. Transfer of cases and investigative files and capacity-building

86. By June 2007, all pending rule 11 bis cases had been transferred to Bosnia and Herzegovina (six cases), Croatia (one case) and Serbia (one case). The Office of the Prosecutor has worked closely with these authorities on transferred cases, which are monitored by OSCE on behalf of the Office of the Prosecutor. The reports received from OSCE serve as a basis for the progress reports submitted to the Tribunal Referral Bench on each case.

87. The Office of the Prosecutor transferred investigative material involving lower-level perpetrators to national prosecution authorities in Bosnia and Herzegovina, Croatia and Serbia. Thus far, the Office of the Prosecutor has sent eight case files to Bosnia and Herzegovina, two case files to Croatia, two case files to Serbia and four case files to the former Yugoslav Republic of Macedonia. The Office of the Prosecutor also regularly responds to specific requests for assistance from national prosecution authorities in relation to ongoing domestic investigations and trials.

88. The Office of the Prosecutor continued to fully support the furtherance of the rule of law in the region through its capacity-building activities, by sharing expertise and knowledge and providing direct access to its extensive document collections and databases. The Office of the Prosecutor signed an agreement on access to the prosecution's electronic disclosure system with Montenegro on 6 December 2007. Similar agreements had previously been concluded with Croatia, Bosnia and Herzegovina and Serbia.

89. The Office of the Prosecutor continues to work closely in partnership with prosecution authorities in the region so that they can continue to effectively prosecute war crimes cases and strengthen cooperation with each other in criminal matters.

V. Activity of the Registry

90. During the reporting period, the Registry, headed by Registrar Hans Holthuis, continued to provide operational support to the Chambers and the Office of the Prosecutor in accordance with the statute and to manage the administration of the Tribunal.

91. The impact of the completion strategy on the discharge of this statutory mandate remained significant. The Registry worked with the President's Office, Chambers and the Office of the Prosecutor to coordinate the implementation of the completion strategy and also worked closely with the Secretariat in New York and with the International Criminal Tribunal for Rwanda.

92. The cooperation of the Registry with other international tribunals and courts has been ongoing. The Registrar held monthly videoconferences with his counterpart from the International Criminal Tribunal for Rwanda, consulted whenever necessary with the Registrars of the International Criminal Court and the Special Court for Sierra Leone, and made available resources to the Extraordinary

Chambers in the Courts of Cambodia. Moreover, the Registry provided assistance to the Office of Legal Affairs in setting up the Special Tribunal for Lebanon.

A. Office of the Registrar

93. The Office of the Registrar consists of the Registry Advisory Section for Legal and Policy Matters and the Communications Service.

94. During the reporting period, the Registry Advisory Section for Legal and Policy Matters diversified its advisory services. These services now include advice on contracts, legal procurement and human resources matters, claims against the International Criminal Tribunal for the Former Yugoslavia, the negotiation of international agreements on privileges and immunities, liaison with the Office of Legal Affairs and States Members of the United Nations on specific issues, and host State relations. The Registry Advisory Section for Legal and Policy Matters has developed a large network of contacts in the administration of the host State.

95. The Registry Advisory Section for Legal and Policy Matters managed to finalize four agreements on the enforcement of sentences imposed by the Tribunal and to significantly advance negotiations on agreements on the relocation of sensitive witnesses.

96. The Communications Service, under the Registrar's supervision, comprises a Media/Outreach/Web Section and a Library/Publications/Tribunet/Visits Section. The main external communication priority of the Tribunal has been the finalization of a comprehensive redesign of the Tribunal website, which is scheduled for launch in the summer of 2008 (www.un.org/icty). The work of the Tribunal Outreach Programme continued to set the standard for international courts, with a broad range of innovative and important activities in the region of the former Yugoslavia. With regard to Library/Publications/Tribunet/Visits Section, the integration of the Library, which previously reported to the Deputy Registrar, has been successfully completed, and the Library continued to provide access to current and timely legal information and references.

B. Judicial Support Services Section

97. During the reporting period, the Court Management and Support Services Section supported 12 trials involving 35 accused, as well as several contempt and appeals hearings. The Section assisted with nine rule 92 bis missions and eight video links. On two occasions, the Section helped to coordinate trial sessions held by the Tribunal Trial Chambers in Bosnia and Herzegovina, providing staff and logistical support.

98. As several accused have chosen to proceed without the assistance of legal counsel, the Court Management and Support Services Section, in collaboration with the Victims and Witnesses Section, the Office of Legal Aid and Detention, the United Nations Detention Unit, and other areas of the Registry ensured that the self-represented accused had adequate facilities to prepare and present their cases.

99. Furthermore, the Court Management and Support Services Section worked closely with the Tribunal Archivist to execute a strategic plan for migration and preservation of court session video records, case files, evidence, exhibits, and

administrative records. This effort is being conducted in collaboration with the Archives and Records Management Section of the United Nations and the International Criminal Tribunal for Rwanda.

100. The Conference and Language Services Section provides interpretation, translation and court reporting services for the needs of the Tribunal. During the reporting period, the Section translated 75,000 pages into English, French, Bosnian/Croatian/Serbian, Albanian and Macedonian and registered 8,500 conference interpreter days. Court reporters provided verbatim French and English transcripts for 11 trials involving 33 accused.

101. The Victims and Witnesses Section consists of three main Units. Since 1 August 2007, the Operations and Support Units have brought 392 witnesses and accompanying support persons to The Hague to testify in 16 cases between August 2007 and 15 April 2008. The Support Officers functioned at full capacity as the Units continued to ensure expert services to victims and witnesses, including counselling as well as practical and social support.

102. The Protection Unit of Victims and Witnesses Section coordinated professional responses to an increased number of threats to witnesses before, during and after their appearance at the Tribunal and worked towards relocating protected witnesses when appropriate.

103. During the reporting period, the workload of the Office of Legal Aid and Detention increased significantly owing to the unprecedented number of accused persons on trial and the high number of defence team members in pretrial, trial and appeal, to whom it provided logistical support and assistance. For instance, the Office facilitated 225 individual defence network accounts for defence team members, and 192 remote access tokens are currently in use, enabling defence access to the Tribunal judicial database from anywhere in the world.

104. Additionally, in cooperation with the United Nations Detention Unit, the Office of Legal Aid and Detention assisted self-represented accused, including by assigning legal advisers and other support staff, facilitating privileged communication with certain categories of defence team members, and responding to various requests for facilities in the United Nations Detention Unit.

105. In keeping with an Appeals Chamber decision in a case involving a self-represented accused, the Office of Legal Aid and Detention adopted a special remuneration scheme for persons assisting indigent self-represented accused. Provision was also made for the assignment of an investigator, a case manager and, where necessary, a language assistant.

106. Throughout the reporting period, the Office of Legal Aid and Detention also continued to work in close cooperation with the Association for Defence Counsel to resolve issues of concern to defence counsel and to expeditiously provide all necessary support to enable defence counsel to fulfil their important role in upholding international justice. The Association for Defence Council played an active role in ensuring the professional integrity of its membership and participated in consultations on major decisions and policies affecting defence counsel, including participation in meetings of the Rules Committee.

107. Finally, the Office of Legal Aid and Detention shared its experience and best practices in administrating the legal aid of the Tribunal with the Special Court for

Sierra Leone and during seminars organized by the International Criminal Court. The Office also contributed to the capacity-building of the State Court of Bosnia and Herzegovina by sharing its experience during a State Court visit to the Tribunal.

108. During the reporting period, the United Nations Detention Unit continued to operate at a high level of activity, serving the judicial process on a daily basis for up to 28 accused in the trial phase while providing secure custodial care to all detained persons. Additional challenges included an ageing detainee population with an average age of over 56 years, resulting in increased health-care concerns, including complex medical conditions; an unprecedented number of provisional releases of varying duration; and facilitating the additional requirements of multiple self-representing accused and detainees charged with contempt of the Tribunal.

109. In October 2007, a new services and facilities agreement with the Government of the Netherlands came into force, offering additional flexibility and financial savings. The agreement is likely to create a firm foundation for future negotiations in the downsizing phase of the Tribunal. Also in October 2007, an agreement with the Government of the Czech Republic commenced for the services of four experienced Czech prison officers, thereby enhancing the international character of the Detention Unit.

C. Administrative Support Services Division

110. During the reporting period, the Budget Section was responsible for coordinating the preparation of the second performance report for the biennium 2006-2007 and exercising budgetary control and post management in respect of assessed budget and extrabudgetary resources.

111. In its resolution 62/374, the General Assembly decided to appropriate, before recosting, to the Special Account for the Tribunal a total amount of $339,439,600 gross ($310,952,100 net) for the biennium 2008-2009, which reflected an increase in real terms of $12,865,700 gross, or 3.9 per cent ($13,821,600 net, or 4.7 per cent), compared to the revised appropriation for the biennium 2006-2007 (A/61/585). After recosting, the funds appropriated for the biennium 2008-2009 amounted to $347,566,900 gross ($316,472,100 net).

112. The new staffing table approved for the biennium 2008-2009 includes a total of 990 posts in 2008 (987 posts for the International Criminal Tribunal for the Former Yugoslavia and 3 posts for Office of Internal Oversight Services Resident Auditors) and 732 posts in 2009 (a reduction of 258 posts to be gradually implemented between August and November 2009).

113. During the 2008-2009 biennium, extrabudgetary resources are estimated at $3,133,200, reflecting a net decrease of approximately $700,000, to be utilized for a variety of Tribunal activities. The decrease results from the completion of ongoing projects for which full funding had been received. As of 31 May 2008, cash donations of approximately $44.3 million had been received for the voluntary fund to support the activities of the Tribunal. A total of $142,418 is currently outstanding in respect of pledged contributions. For the period from 30 April 2007 to 31 May 2008, the Tribunal received $802,117 in voluntary cash contributions.

114. During the reporting period, the Human Resources Section recruited 76 staff in the Professional and higher categories and 124 General Service staff. The section

oversaw the administration of a total of 1,146 staff members: 472 at the Professional level (47 per cent of whom are female) and 674 at the General Service level. The Tribunal has staff from 82 countries. A total of 231 interns provided assistance to the Tribunal, while the number of consultants and individual contractors totalled 206 and conference interpreters and translators numbered 410.

115. As the departure of key personnel in advance of the completion dates would have a negative impact on the ability of the Tribunal to meet its mandate, the Human Resources Section has implemented a number of measures to retain staff, including extended training activities, in which some 950 staff took part.

United Nations A/63/211

General Assembly

Distr.: General
4 August 2008

Original: English

Sixty-third session
Item 132 of the provisional agenda*
Administration of justice at the United Nations

Administration of justice in the Secretariat: outcome of the work of the Joint Appeals Board during 2006 and 2007 and statistics on the disposition of cases and work of the Panel of Counsel

Report of the Secretary-General

Summary

The present report is submitted in response to the request of the General Assembly to the Secretary-General, in its resolution 55/258 (sect. XI, para. 5), to report to the Assembly on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the report of the Secretary-General on the administration of justice in the Secretariat (A/62/179) provided information concerning the outcome of the work of the Joint Appeals Board for 2005-2006. The present report provides information on the work of all the Joint Appeals Boards in New York, Geneva, Vienna and Nairobi for 2007. For comparative purposes, the present report also contrasts 2007 and 2006 data. In response to the request of the General Assembly in its resolution 57/307, the report also provides statistics on the disposition of cases and information on the work of the Panel of Counsel. To that end, the above-mentioned report of the Secretary-General on the administration of justice in the Secretariat provided information on the disposition of cases and work of the Panel of Counsel for 2006. The present report provides that information for 2007.

* A/63/150.

08-44874 (E) 180808

I. Introduction

1. In its resolution 55/258 (sect. XI, para. 5), the General Assembly requested the Secretary-General to report to it on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the report of the Secretary-General on the administration of justice in the Secretariat (A/62/179) provided information on the work of all Joint Appeals Boards (New York, Geneva, Vienna and Nairobi) for the period 2005-2006. The present report provides information and numerical data on the work of the Joint Appeals Boards for 2007.

2. In its resolution 57/307 (para. 21), the General Assembly requested the Secretary-General to include statistics on the disposition of cases and information on the work of the Panel of Counsel in his annual report on the administration of justice in the Secretariat. In response to that request, the above-mentioned report of the Secretary-General on the administration of justice provided information on the disposition of cases and work of the Panel of Counsel for 2006. The present report provides such information for 2007.

II. Outcome of the work of the Joint Appeals Board

3. Table 1 below sets out information, in numerical and graphic form, on the work of the Joint Appeals Boards in New York, Geneva, Vienna and Nairobi for 2006 and 2007 by providing the number of appeals and suspension of action cases filed and disposed of[1] during those years.

4. As can be seen from the information presented in table 1 below, there was an increase in the number of appeals filed with the Joint Appeals Boards during 2007. The New York Joint Appeals Board received 16 more appeals than in 2006, an increase of 15 per cent. As to the corresponding figures for the other Joint Appeals Boards, the Geneva Board received 11 more appeals as compared to 2006, an increase of 41 per cent. The Vienna Board received 2 fewer appeals in 2007, a decrease of 33 per cent, and the Nairobi Board received 11 appeals, which was the same number as it received in 2006.

5. There is also a difference between the two periods in the number of cases disposed of by the Joint Appeals Boards. All four Joint Appeals Boards disposed of more appeals in 2007 than in 2006. Specifically, the number of appeals disposed of by the New York Joint Appeals Board increased by 17 in 2007, an increase of 17 per cent, while the number of appeals disposed of by the Geneva Joint Appeals Board increased by 16, an increase of 59 per cent. The Vienna Joint Appeals Board disposed of 2 more cases in 2007 than in 2006, an increase of 66 per cent, while in Nairobi the Board disposed of 6 more cases in 2007 than in 2006, an increase of 56 per cent.

6. As to the number of pending appeals at the end of the reporting period, the Vienna Joint Appeals Board had 7 pending appeals. The Nairobi Joint Appeals Board had 3 pending appeals. The Geneva Joint Appeals Board had 28 pending

[1] The term "disposed of" refers to appeals with respect to which the Joint Appeals Board has completed its involvement. The figures may include appeals which, though filed during a previous year, were disposed of in subsequent years owing to an existing backlog. This explains why, at times, the number of appeals disposed of is higher than the number of appeals filed.

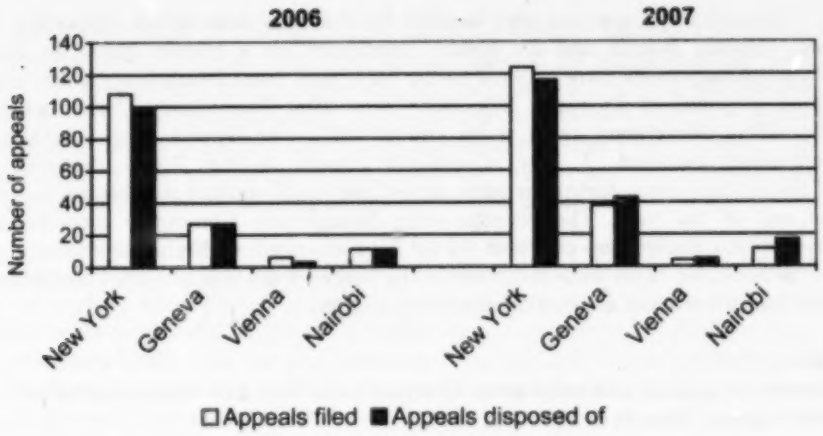
appeals. New York had the highest number of pending appeals. As at the end of 2007, the number of pending appeals at the New York Joint Appeals Board was 101.

7. Disciplinary cases are also handled by the same secretariats supporting the Joint Appeals Boards and are always considered on a priority basis. In 2007, 32 disciplinary cases were referred to the New York Joint Disciplinary Committee, which disposed of 21 cases. The New York Joint Disciplinary Committee had 28 pending disciplinary cases at the end of 2007. The Geneva Joint Disciplinary Committee received 7 new disciplinary cases during 2007, disposed of 17 disciplinary cases during the same period and had 3 pending disciplinary cases at the end of the year. The Nairobi Joint Disciplinary Committee received and considered 1 disciplinary case and did not have any pending disciplinary cases at the end of 2007. No cases were submitted to the Vienna Joint Disciplinary Committee in 2007 and Vienna had no pending disciplinary cases.

Table 1
Number of appeals and suspension of action cases filed and disposed of by all Joint Appeals Boards in 2006 and 2007

Standing Joint Appeals Boards	*2006*	*2007*	*Percentage of variance*
New York: appeals filed	108	124	+15
New York: appeals disposed of	99[a]	116	+17
Geneva: appeals filed	27	38	+41
Geneva: appeals disposed of	27	43	+59
Vienna: appeals filed	6	4	-33
Vienna: appeals disposed of	3	5	+66
Nairobi: appeals filed	11	11	0
Nairobi: appeals disposed of	11	17	+56

[a] One of these appeals comprised 232 cases contesting the same administrative decision (where the Respondent, after long negotiations and a conciliation process, initially agreed for direct submission of the cases to the United Nations Administrative Tribunal and later decided to rescind the contested decision).



8. Table 2 below provides, in both numerical and graphic forms, information on the decisions taken by the Secretary-General on reports of the Joint Appeals Board for 2006 and 2007.

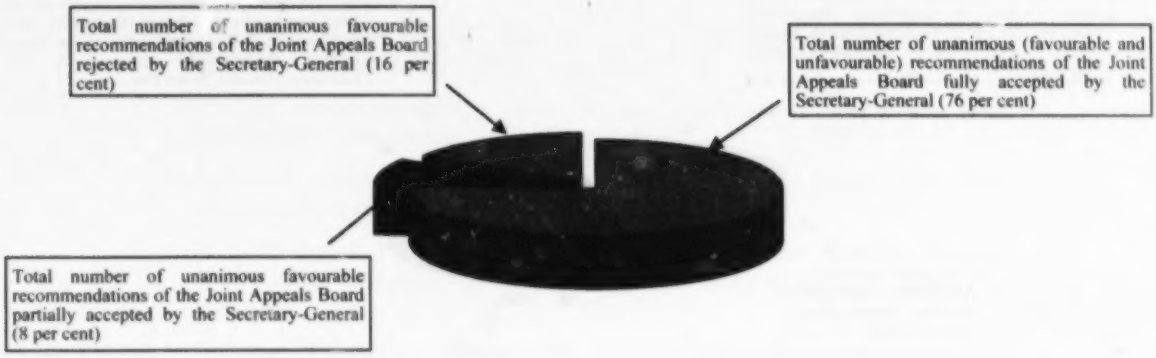
Table 2
Decisions by the Secretary-General on unanimous recommendations of the Joint Appeals Board on appeals and requests for suspension of action in 2006 and 2007

2006

Joint Appeals Board reports from	*Decisions on reports of the Board*	*Unanimous recommendations of the Board*	*Unanimous recommendations of the Board fully accepted by the Secretary-General*	*Unanimous recommendations of the Board partially accepted by the Secretary-General*	*Unanimous favourable recommendations of the Board rejected by the Secretary-General*[a]	*Unanimous unfavourable recommendations of the Board*
New York	64	62	46 (74%)	5 (8%)	11 (18%)	30 (48%)
Geneva	30	30	25 (83%)	2 (7%)	3 (10%)	20 (67%)
Vienna	2	2	1 (50%)	0	1 (50%)	1 (50%)
Nairobi	6	5	3 (60%)	1 (20%)	1 (20%)	2 (40%)
Total	**102**	**99**	**75 (76%)**	**8 (8%)**	**16 (16%)**	**53 (52%)**

84% (full and partial acceptances)

[a] There were no unanimous unfavourable recommendations rejected by the Secretary-General.

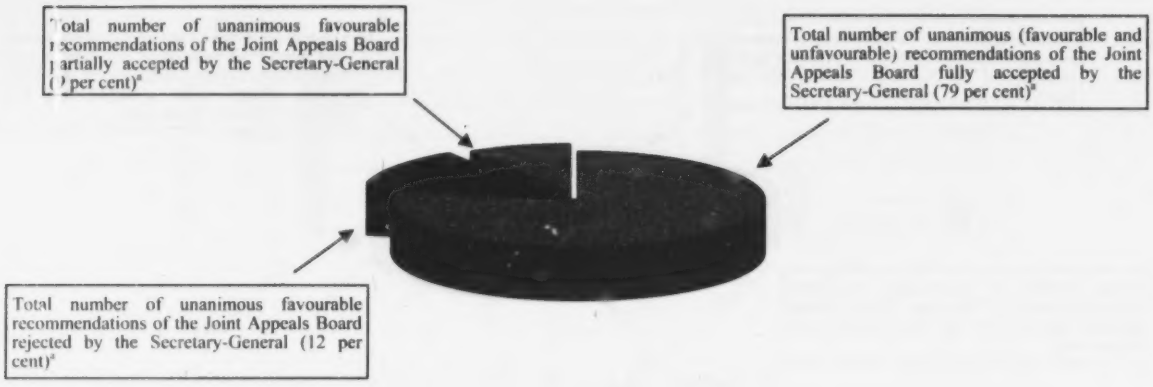

Total number of unanimous favourable recommendations of the Joint Appeals Board rejected by the Secretary-General (16 per cent)
Total number of unanimous (favourable and unfavourable) recommendations of the Joint Appeals Board fully accepted by the Secretary-General (76 per cent)
Total number of unanimous favourable recommendations of the Joint Appeals Board partially accepted by the Secretary-General (8 per cent)

2007

Joint Appeals Board reports from	*Total number of decisions on reports*	*Total number of unanimous recommendations of the Board*	*Total number of unanimous recommendations of the Board fully accepted by the Secretary-General*	*Total number of unanimous recommendations of the Board partially accepted by the Secretary-General*	*Total number of unanimous favourable recommendations of the Board rejected by the Secretary-General*[a]	*Total number of unanimous unfavourable recommendations of the Board*
New York	107	100[a]	78 (78%)	11 (11%)	10 (10%)	57 (57%)
Geneva	43	43	37 (86%)	2 (5%)	4 (9%)	29 (67%)
Vienna	5	5	3 (60%)	0	2 (40%)	3 (60%)
Nairobi	18	16	11 (69%)	1 (6%)	4 (25%)	8 (50%)
Total	**173**	**164**[a]	**129 (79%)**	**14 (9%)**	**20 (12%)**	**97 (59%)**

88% (full and partial acceptances)

[a] There was one unanimous unfavourable recommendation of the New York Joint Appeals Board rejected by the Secretary-General, which represents less than 1 per cent of the 164 unanimous recommendations. This one case is not included in the percentages relating to the total number of unanimous recommendations, which total 100 per cent due to rounding. However, this case explains why the percentages for New York do not add up to 100 per cent


Total number of unanimous favourable recommendations of the Joint Appeals Board partially accepted by the Secretary-General (9 per cent)[a]
Total number of unanimous (favourable and unfavourable) recommendations of the Joint Appeals Board fully accepted by the Secretary-General (79 per cent)[a]
Total number of unanimous favourable recommendations of the Joint Appeals Board rejected by the Secretary-General (12 per cent)[a]

[a] Does not include one unanimous unfavourable recommendation of the New York Joint Appeals Board rejected by the Secretary-General, which represents less than 1 per cent of the 164 unanimous recommendations. Percentages total 100 per cent as a result of rounding.

9. As can be seen from table 2 above and its accompanying figures for 2006 and 2007, the percentage of full and partial acceptances by the Secretary-General of unanimous recommendations of the Joint Appeals Board increased in 2007 in comparison to the previous year (84 per cent for 2006 and 88 per cent for 2007). The percentage of rejections by the Secretary-General of unanimous recommendations of the Board that were favourable to the appellants was low in both periods (16 per cent in 2006 and 12 per cent in 2007).

10. This is in line with the stated policy of the Secretary-General, which is normally to accept unanimous recommendations unless there is a compelling reason of law or policy not to do so. In all such instances, the decisions of the Secretary-General provide detailed reasons for such rejection, which in most cases is attributable to a determination that the Joint Appeals Board may have incorrectly applied law or policy or may have made findings of fact not supported by the evidence available. With the increased training for the members of the Joint Appeals Board and the Joint Disciplinary Committee in the applicable law and policies of the Organization and the availability of the web-based repository of the recent jurisprudence of the Administrative Tribunal (encompassing jurisprudence on judgements rendered from 1980 onwards), the Secretary-General believes that unanimous recommendations are more reliably supported by the evidence, as well as reflective of the applicable law, and that consequently, the percentage of acceptable recommendations should remain at current levels or rise. The Secretary-General, however, maintains the discretionary authority to reject unanimous recommendations of the Joint Appeals Board in cases where he finds that it is in the interests of the Organization to do so.

11. During the reporting period for 2007, in addition to the regular functions required of them, the various secretariats of the Joint Appeals Boards were involved in the following activities to different extents:

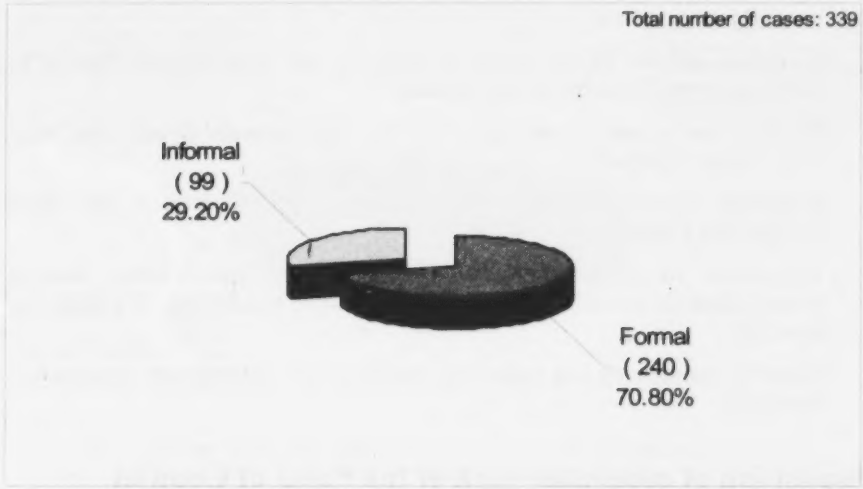
- Providing advice and assistance on issues relating to various aspects of the reform of the internal justice system and contributing to the preparation of the reports of the Secretary-General on various aspects of the reform of the internal justice system
- Providing updates on the status of work of the Joint Appeals Boards to different oversight bodies at their request
- Drafting and adopting new rules for the Joint Appeals Boards and Joint Disciplinary Committees
- Preparing plenary meetings for the Joint Appeals Boards and Joint Disciplinary Committees
- Preparation of training materials and modules and holding training presentations for participants in the internal justice system and, in Vienna, for new staff
- Creating, maintaining and improving websites, case management systems and databases.

III. Disposition of cases and work of the Panel of Counsel

12. In 2007, 339 new cases were brought to the Panel of Counsel in New York, compared with 294 new cases in 2006, an increase of 15.31 per cent.[2] Of these 339 new cases, 240 went through formal appeals processes and 99 were dealt with informally (see figure I). In 2006, there had been 194 formal cases and 100 informal cases. Formal cases increased by 23.71 per cent from 2006 to 2007, while informal cases decreased by 1 per cent.

[2] Although many cases reported as new cases in previous reports continue to involve the time and attention of both counsel and the Coordinator, they are not included here.

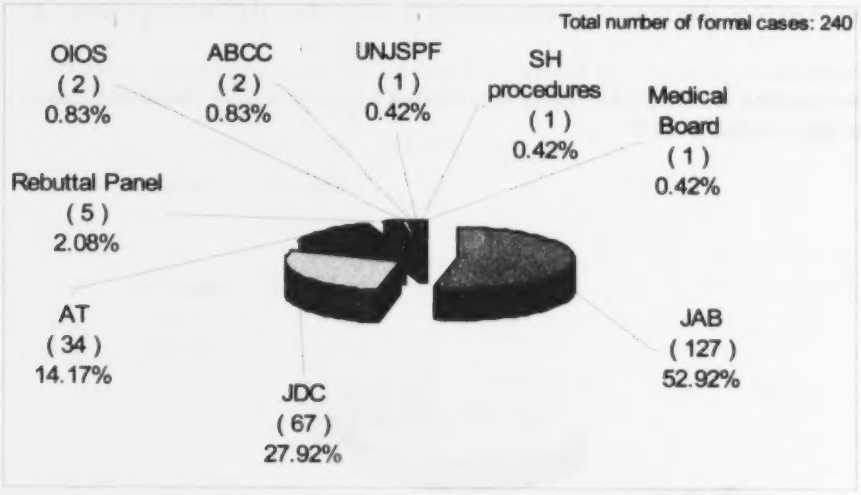
Figure I
Distribution of informal and formal cases in 2007



13. The distribution of the 240 formal cases by recourse body is shown in figure II below. In comparing the statistics of 2006 with those of 2007, the number of cases taken to the Joint Appeals Board increased by 30.93 per cent and the number of cases taken to the United Nations Administrative Tribunal increased by 30.77 per cent. The number of cases taken to the Joint Disciplinary Committee increased by 26.42 per cent from the previous period, from 53 cases in 2006 to 67 cases in 2007. An increase in disciplinary cases is particularly significant, as the cases are generally more complex than other types of cases and are often much more labour-intensive.[3]

[3] Disciplinary cases (see figure III) comprise all cases of a disciplinary nature and include cases in the investigative stages and those that seek recourse to the United Nations Administrative Tribunal. Cases before the Joint Disciplinary Committee (see figure II) are those of a disciplinary nature that involve formal hearings before the established Joint Disciplinary Committee of the Secretariat, as well as those established by other United Nations funds and programmes, i.e., the Disciplinary Committee of the United Nations Development Programme, the United Nations Population Fund and the United Nations Office for Project Services, and the United Nations Children's Fund ad hoc disciplinary committees.

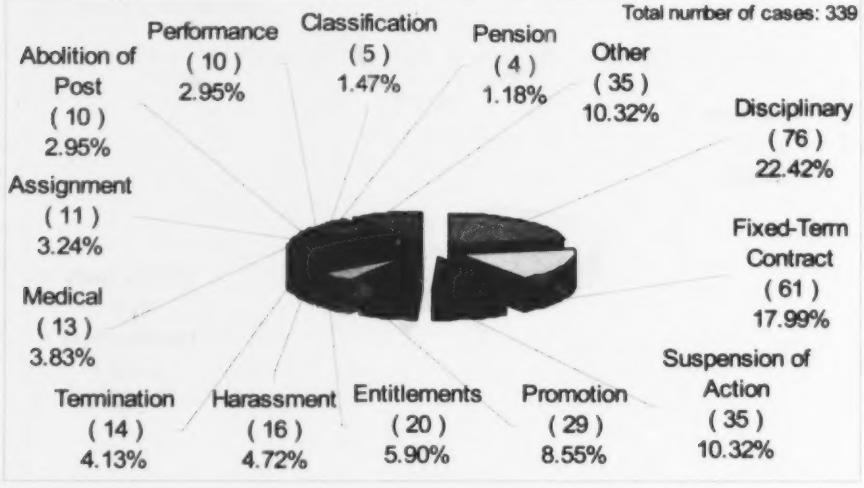
Figure II
Distribution of formal cases by recourse body in 2007



Abbreviations: ABCC, Advisory Board on Compensation Claims; AT, United Nations Administrative Tribunal; JAB, Joint Appeals Board; JDC, disciplinary committees of the Secretariat and United Nations funds and programmes; OIOS, Office of Internal Oversight Services; SH, sexual harassment procedures; and UNJSPF, United Nations Joint Staff Pension Fund.

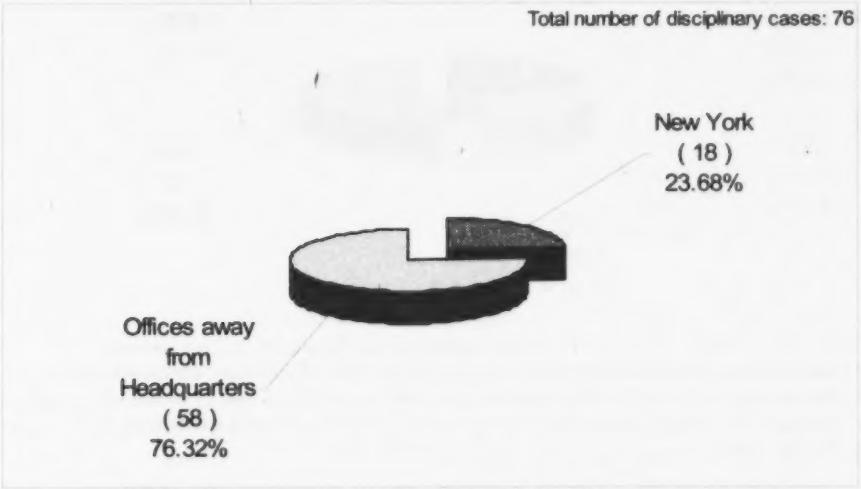
14. As shown in figure III below, most of the 339 cases in 2007 concerned disciplinary matters (22.42 per cent); non-renewals or terminations of fixed-term contracts (17.99 per cent); and suspensions of action (10.32 per cent).

Figure III
Subject and respective number of new cases dealt with by the New York Panel of Counsel during 2007



15. As seen in figure IV below, in 2007 a substantial majority (76.32 per cent) of disciplinary cases represented by members of the Panel of Counsel involved clients who were based in offices away from United Nations Headquarters and who were not, therefore, able to be physically present in cases where their hearings were held.

Figure IV
Distribution of disciplinary cases represented by the New York Panel of Counsel by duty station in 2007

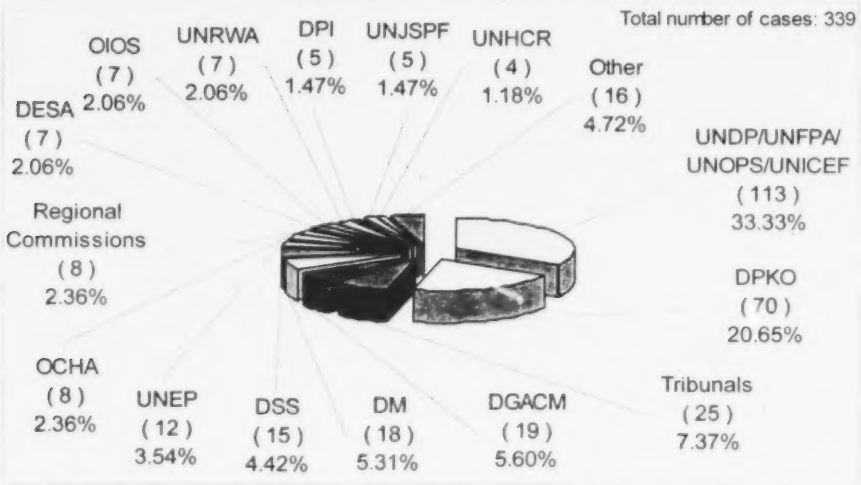


16. Figure V below shows the distribution of all cases represented by the New York Panel of Counsel in 2007 where the clients were stationed either in New York or at offices away from Headquarters.

Figure V
Distribution of cases by duty station in 2007

17. Figure VI below shows the distribution of cases (originated in 2007) by Departments of the Secretariat and the Funds and Programmes.

Figure VI
Distribution of cases represented by Panel of Counsel by department in 2007



Abbreviations: DESA, Department of Economic and Social Affairs; DGACM, Department for General Assembly and Conference Management; DM, Department of Management; DPI, Department of Public Information; DPKO, Department of Peacekeeping Operations; DSS, Department of Safety and Security; OCHA, Office for the Coordination of Humanitarian Affairs; OIOS, Office of Internal Oversight Services; Tribunals, International Tribunal for the former Yugoslavia and International Tribunal for Rwanda; UNDP, United Nations Development Programme; UNEP, United Nations Environment Programme; UNFPA, United Nations Population Fund; UNHCR, Office of the United Nations High Commissioner for Refugees; UNICEF, United Nations Children's Fund; UNJSPF, United Nations Joint Staff Pension Fund; UNOPS, United Nations Office for Project Services; UNRWA, United Nations Relief and Works Agency for Palestine Refugees in the Near East.

18. **The General Assembly may wish to take note of the present report.**